

I N D E XOBJECTIONS TO PRESENTENCE REPORTPAGE

Mr. Barrett

3

MOTIONSPAGE

SPECIFIC OFFENSE CHARACTERISTICS

Mr. Barrett

51

Mr. Anderson

56

Mr. Barrett

57

The Court

60

GOVERNMENT'S WITNESSPAGE

SHANNON REINERT

Direct - Mr. Anderson

35

Cross - Mr. Barrett

44

Redirect - Mr. Anderson

50

DEFENDANT'S WITNESSESPAGE

SUSAN JOHNSON

Direct - Mr. Barrett

8

Cross - Mr. Anderson

14

Redirect - Mr. Barrett

18

TERRY PULHAM

Direct - Mr. Barrett

19

Cross - Mr. Anderson

30

JUDGMENT AND SENTENCEPAGE

Mr. Barrett

68

Mr. Anderson

71

Mr. Barrett

75

The Defendant

78

Mr. Barrett

80

The Court

80

1 (Proceedings commenced 2:27 p.m., February 18, 2016.)

2 COURTROOM DEPUTY: In criminal matter Case
3 No. 15-CR-136-1-F, United States of America versus J.C.
4 Christopher Pulham, set today for sentencing.

5 Counsel, please state your appearances.

6 MR. ANDERSON: Jim Anderson on behalf of the United
7 States.

8 MR. BARRETT: Jim Barrett on behalf of Mr. Pulham.

9 THE COURT: Good afternoon.

10 Mr. Barrett, have you had an opportunity to read and
11 discuss the Presentence Report filed in this case?

12 MR. BARRETT: I have, Your Honor.

13 THE COURT: Are there any factual issues concerning
14 the report?

15 MR. BARRETT: There are, Your Honor. Some affect --
16 one in particular affects the guideline calculation. There are
17 some other clarifications I believe that should also be made to
18 keep some of this as near as possible to context.

19 The Presentence Report -- and you'll get to the major
20 objection last. The Presentence Report at page 6, paragraph
21 28, indicates "Juvenile Adjudications," and that paragraph 28
22 indicates that the defendant has a juvenile rap sheet and gives
23 a number, reflecting an arrest on February 1, 1989 for forcible
24 sexual abuse of a child under age 14. This matter did not
25 result in a juvenile adjudication, delinquency adjudication, or

1 for that matter, Your Honor, any adjudication whatsoever.

2 Mr. Pulham as a juvenile never appeared before any
3 juvenile court or committee for disposition, so there was no
4 adjudication either begun or completed.

5 It then says that he was placed in extended
6 counseling, the inference being that it was the result of some
7 form of adjudication or arrest. He was placed in extended
8 counseling, that is not accurate either. Mr. Pulham was placed
9 at -- in an institution for counseling on the recommendation of
10 his school and with the consent of his parents, part of which
11 we will be discussing later on. It had nothing to do with the
12 arrest or any judicial or quasi-judicial recommendation.

13 Later on in the report there's also a statement by --
14 and repeated in the report by Mr. Pulham's sister Crystal that
15 he was in counseling for a number of months. That's also not
16 true. He was at the hospital for a period of 38 days total
17 beginning in late May of 1989.

18 The arrest that's referred to in paragraph 28, I don't
19 know how, where or why any authority created an arrest record
20 or any number on any official document, but that was in
21 relation to accusations that we will also be dealing with here
22 today in 1989 and dealing directly with accusations made by
23 Mr. Pulham's sister Crystal alleging hands-on offenses and
24 molestation by him and including rape of his sister Crystal and
25 his younger sister Susan. His sister Crystal at the time would

1 have been 10 or 11 years old, at least that's what she says was
2 the end of the molesting.

3 So this had to do with a report to DFS in 1989. There
4 is no official arrest, no official prosecution, no official
5 adjudication by DFS or any juvenile authority. That's just for
6 purposes of clarification.

7 Now, the matter objected to and objectionable appears
8 at page 6. Paragraph 17 is Specific Intent Characteristic,
9 that characteristic being that this defendant engaged in a
10 pattern of activity involving the sexual abuse of minors, that
11 he has at least three hands-on victims in Utah, and therefore,
12 five levels were added.

13 The alleged hands-on victims are a young lady by the
14 name of Jennifer Haines, Mr. Pulham's sister Crystal,
15 Mr. Pulham's sister Susan. I'll address, I suppose, primarily
16 by way of argument, although we do have witnesses to present
17 here today, that will testify to this Court that with regard to
18 Crystal's verification to the probation officer of abuse --
19 Mr. Pulham's sister Susan is here. She was allegedly raped.
20 She was examined, as was her older sister Crystal, and there
21 was found to be no evidence of sexual intercourse, even though
22 the older sister Crystal alleged that it happened not just
23 once, but many times.

24 Mr. Pulham's younger -- Crystal's younger sister Susan
25 is here today, and she will testify that she has searched and

1 searched her memory and cannot think of a single instance in
2 which Mr. Pulham molested her or acted inappropriately around
3 her.

4 I learned this morning that Ms. Hyde was apparently
5 interviewed. Whether that will be a matter of testimony by the
6 Government, I don't know, but I suspect it will be.

7 Ms. Hyde reported in 1988 she had been in
8 counseling -- no mention of why she was in counseling -- but
9 during a period of counseling when she was a youngster she had
10 mentioned that she had been molested on a single occasion by
11 Mr. Pulham, and that's kind of where it wound up. Parties were
12 notified; parents were advised; the children were kept apart,
13 and nothing further after that occurred with regard to that
14 allegation.

15 That allegation was solely that, an allegation. There
16 was never any significant investigation of the charges. It was
17 only later in 1989 that Mr. Pulham's sister Crystal alleged
18 that she had been raped for a number of years and a number of
19 times; most recently she had been molested countless times by
20 Mr. Pulham, even though at the time of Mr. Pulham's
21 hospitalization she approached the staff at the hospital and
22 withdrew those allegations, told them that they were not true.

23 Her statement in the Presentence Report and in later
24 interviews was that -- first in the presentence interview
25 report that she specifically told them, "I am being forced to

1 do this." At page 9, paragraph 43: "Deborah Pulham was upset
2 and made Crystal tell Benchmark" -- that's the hospital --
3 "that the abuse never happened. Crystal finally relented. She
4 told them, 'I am being forced to tell you the abuse never
5 happened.' That day she ran away from home."

6 The later government interview indicates that Crystal
7 now says not that she was forced to, but that she was forced to
8 but never said that to the hospital staff. What she really
9 said -- and I'll try and find the language. Here it is. What
10 she really said was this: "That Crystal stated that she
11 recalls telling a staff member verbatim, quote, 'I'm supposed
12 to tell you the allegations I've made against Pulham are not
13 true.' After hearing this, the employee asked, quote, 'They
14 aren't true?' to which Crystal angrily replied, quote, 'Listen.
15 Listen to me. I'm supposed to tell you the allegations are not
16 true.'"

17 That's the latest version. But in both versions she
18 withdrew the allegations. And the hospital records indicate as
19 follows: "That Mr. Pulham and his sisters had become
20 friendlier; that the group therapies or individual therapies
21 were never able to determine for certain whether or not sexual
22 abuse trauma had actually occurred. However, it was deemed
23 unprovable at this time, and probably the patient was
24 accurate," in his denial. Those are my words, "in his denial."
25 "Probably the patient was accurate since the sister had denied

DOCKET 15-CR-136-F

JOHNSON - DIRECT

8

1 after originally choosing that there was trauma or
2 molestation." No indication there that any of the hospital
3 staff had been given any indication that that retraction was
4 anything less than voluntary.

5 Your Honor, I think we can -- with permission of the
6 Court, I would like to call Mr. Pulham's sister and
7 Mr. Pulham's father, who is also accused of -- not direct
8 unseemly conduct, but he's also accused in the Presentence
9 Report and later documents with having knowledge of molestation
10 occurring which he will deny. With the Court's permission, I
11 would like to call Susan Pulham to the stand to address
12 those -- that issue with her.

13 THE COURT: Please proceed.

14 (Witness sworn.)

15 COURTROOM DEPUTY: Take a seat. State and spell your
16 name for the record.

17 THE WITNESS: My name is Susan Johnson, S-u-s-a-n
18 J-o-h-n-s-o-n.

19 SUSAN JOHNSON, DEFENDANT'S WITNESS, DIRECT EXAMINATION
20 BY MR. BARRETT:

21 Q. Mrs. Johnson, at one time were you also known as Susan
22 Pulham?

23 A. Yes. I recently got married -- well, not recently, but --
24 almost two years ago. Pulham is my maiden name.

25 Q. And do you know the defendant in this case, J.C. Pulham?

1 **A.** Yes.

2 **Q.** How do you know him?

3 **A.** He's my brother.

4 **Q.** You grew up with your brother?

5 **A.** Yes.

6 **Q.** How did he treat you?

7 **A.** Good.

8 **Q.** Like a brother does?

9 **A.** Yes.

10 **Q.** All right. You're aware of the accusations in this case?

11 **A.** I am.

12 **Q.** You're aware that your brother is accused of possession of
13 child pornography?

14 **A.** I am.

15 **Q.** You approve of that in any way? Do you approve of that?

16 **A.** Do I approve of --

17 **Q.** Possession of child pornography?

18 **A.** No.

19 **Q.** Okay. As part of the Presentence Investigation in this
20 matter it was alleged by someone named Crystal -- who would
21 that be? Do you know a Crystal?

22 **A.** Yes.

23 **Q.** How do you know her?

24 **A.** She's my older sister.

25 **Q.** How much older?

1 **A.** I believe eight years.

2 **Q.** Okay. And it was alleged by your older sister Crystal that
3 she had been molested and raped and had intercourse with your
4 brother J.C. Are you aware of that?

5 **A.** I'm aware of it.

6 **Q.** She also alleged that you had been molested and that you
7 had -- and that J.C. had had some form of intercourse with you.
8 Are you aware of that?

9 **A.** Yes.

10 **Q.** Is that true?

11 **A.** No.

12 **Q.** Have you -- you were quite young at the time, or would have
13 been quite young, wouldn't you?

14 **A.** Yes.

15 **Q.** And have you searched your memory as best you can --

16 **A.** I have.

17 **Q.** -- to determine whether or not anything inappropriate may
18 have occurred?

19 **A.** Right.

20 **Q.** Have you been able to recall anything?

21 **A.** I cannot remember anything happening.

22 **Q.** What do you remember about your relationship with J.C.?

23 **A.** Growing up?

24 **Q.** Yes.

25 **A.** We had a very close relationship.

1 Q. Can you give us an example of how that was?

2 A. I -- he was -- we were really good friends. I would go to
3 him for advice. We hung out a lot.

4 Q. Did your sister Crystal ever ask you to report any
5 inappropriate conduct to your parents?

6 A. She did.

7 Q. Can you describe that to the Court?

8 A. One evening she came to me and took me into her bedroom and
9 sat me down on her bed and told me that she needed me to go
10 tell our parents a story and she --

11 Q. What sort of story?

12 A. About my brother J.C.

13 Q. What about him?

14 A. That he was touching us and that -- in her words that she
15 used for me, that he was trying to put his wee wee in us and
16 that our parents didn't believe her but they would believe me,
17 so I needed to go tell them.

18 Q. And what did you do?

19 A. She pushed me down the hall to our parents' bedroom.

20 Q. And what happened next?

21 A. I went in. I was scared. And I woke up my father.

22 Q. Did you tell your father anything?

23 A. I told them the story that Crystal had asked me to tell.

24 Q. Okay. And what did your father do or say?

25 A. I remember him looking concerned, but honestly after that I

DOCKET 15-CR-136-F

JOHNSON - DIRECT

12

1 don't remember what he did. I just remember telling him,
2 waking him up.

3 **Q.** Was this at about the time that the accusations were made
4 against J.C. at school and with the police?

5 **A.** I want to say yes, but I don't --

6 **Q.** You don't recall precisely?

7 **A.** -- remember? (Witness nods head.)

8 **Q.** But what you reported to your father wasn't true?

9 **A.** Right, it was not.

10 **Q.** And there came a time that there was an investigation by
11 Department of Family Services in Utah in, I think, 1989. Do
12 you recall that period of time generally? Do you recall an
13 investigation?

14 **A.** I -- I don't recall an investigation. I don't remember
15 talking to anybody.

16 **Q.** It had been -- the accusation had been made that you were
17 abused. Did you later become aware of that?

18 **A.** Yes.

19 **Q.** Did anybody from DSF -- DFS ever interview you?

20 **A.** No.

21 **Q.** But you were taken for a physical examination, weren't you?

22 **A.** Yes.

23 **Q.** Who arranged for that?

24 **A.** My parents.

25 **Q.** And you were examined?

1 **A.** Yes.

2 **Q.** And your older sister Crystal was examined?

3 **A.** Yes.

4 **Q.** Do you know what the results of that examination were?

5 **A.** That nothing had happened to us and we were intact down
6 there.

7 **Q.** There was no evidence of intercourse?

8 **A.** Right.

9 **Q.** At any other time did anyone from DFS ever talk to you
10 about these events or these allegations?

11 **A.** No.

12 **Q.** Now, your sister Crystal was also undergoing some form of
13 counseling, wasn't she?

14 **A.** At that time or --

15 **Q.** Or later.

16 **A.** As an adult I know she did go to counseling.

17 **Q.** And did you accompany her to those sessions?

18 **A.** I accompanied her, yes, but I did sit out in the waiting
19 room. I did not go into the room with her.

20 **Q.** Okay. You didn't participate in the counseling, but you
21 transported -- took her back and forth?

22 **A.** Yes.

23 **Q.** And did she ever disclose to you what diagnosis, if any,
24 was made of her condition?

25 **A.** She did.

DOCKET 15-CR-136-F

JOHNSON - CROSS

14

1 Q. What was that?

2 A. She told me after one session that her doctor had just
3 diagnosed her as a paranoid schizophrenic.

4 Q. Was she placed on any medications that you're aware of?

5 A. Yes.

6 Q. And did she take them?

7 A. Yes.

8 Q. And this was some time following these allegations -- the
9 allegations of abuse, as far as you know?

10 A. Yes.

11 Q. All right.

12 MR. BARRETT: I believe that's all I have. Thank you.

13 THE COURT: This witness is passed for any questioning
14 by Government.

15 MR. ANDERSON: Questions, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. ANDERSON:

18 Q. Mrs. Johnson, where do you live?

19 A. In Payson, Utah.

20 Q. You stated that you have a very close relationship with
21 your brother?

22 A. Yes.

23 Q. And, in fact, you've been here for every one of his court
24 hearings, as I recall?

25 A. Yes, I have.

1 Q. Where's Mr. Pulham's wife today?

2 A. J.C. Pulham's wife?

3 Q. Yes.

4 A. At home in Evanston.

5 Q. Has she been to any court hearings?

6 A. No.

7 Q. You said that you have this close relationship with your
8 brother. When was the last time you were at his house?

9 A. At -- yesterday.

10 Q. Before his arrest how close in proximity to the time that
11 he was arrested had you been in his house?

12 A. Maybe a year.

13 Q. Were you aware that one of the officers while searching his
14 house became so ill by the smell and the condition of the house
15 that he vomited?

16 A. No, I was not.

17 Q. Were you aware that one of Mr. Pulham's children were
18 removed from his care due to the condition of the house?

19 A. It was told to me after his arrest, but I was not aware of
20 it before.

21 Q. And that's the individual that you seek out for advice and
22 guidance; is that correct?

23 A. Yes, it is.

24 Q. Who all -- else lives in the Evanston area of your family?

25 A. J.C., his wife and his four kids.

1 Q. Anyone else of your extended family; other sisters,
2 brothers, your parents?

3 A. No, no.

4 Q. In regards to the allegations that were leveled against
5 your brother, was, in fact, your brother removed from your
6 house for a period of time while you were a child?

7 A. Yes.

8 Q. And he was taken to a facility that was operated by an
9 organization known as Benchmark; is that correct?

10 A. Yes.

11 Q. And are you aware that Benchmark at that time was providing
12 psychiatric services and treatment to troubled children?

13 A. No, when I was a kid I did not understand why he was gone.

14 Q. I understand that. You've said a lot of things about what
15 was going on in the house, but I was asking you, were you aware
16 that Benchmark was a facility for the care and treatment of
17 children who were emotionally troubled?

18 A. No, I did not know what Benchmark was.

19 Q. How long had he been out of your home, to the best of your
20 knowledge and belief?

21 A. I don't actually remember. For me, it felt like a couple
22 of weeks.

23 Q. In regards to the situation with your sister Crystal, how
24 often are you in contact with your sister now?

25 A. I am not.

DOCKET 15-CR-136-F

JOHNSON - CROSS

17

1 Q. You're not. When was the last time you were in contact
2 with your sister?

3 A. This is February. About two years ago.

4 Q. Are you aware of what your sister does for a living?

5 A. Vaguely.

6 Q. And what is that?

7 A. She works with -- I want to say it's troubled youth, but
8 I'm not sure.

9 Q. So she's entrusted with the care and the responsibility of
10 caring for troubled youth?

11 A. Sure.

12 Q. Now, in regards to the statements that you've previously
13 made, at the time that all of this was going on with your
14 brother and Crystal telling people that she had been sexually
15 assaulted by her brother, approximately how old were you?

16 A. Between 3 and 4, I believe.

17 Q. And your testimony here is today that you have a clear,
18 crystal-clear recollection of your sister asking you to lie to
19 your parents?

20 A. I do.

21 Q. At the age of 3 or 4?

22 A. Yes.

23 MR. ANDERSON: I don't have anything else, Judge.
24 Thank you.

25 THE COURT: Any redirect?

1 REDIRECT EXAMINATION

2 BY MR. BARRETT:

3 Q. Your sister is a juvenile corrections officer, a jailer in
4 Texas, did you know that?

5 A. No.

6 Q. Now, with regard to Benchmark and troubled children, were
7 you aware at that time -- at that time -- at the time of your
8 brother's admission or now that his discharge diagnosis was
9 generalized anxiety disorder, major depression, single episode,
10 possible sexual abuse trauma of childhood with post-traumatic
11 stress disorder? Did you know that?

12 A. No.

13 Q. Did you ever know that?

14 A. No.

15 Q. Okay. Are you aware of any finding by any treating
16 physician, counselor, or psychologist of your brother having
17 committed a sexual assault on you, your sister or any other
18 party?

19 A. No.

20 Q. So, far as you know, your brother's house in Evanston is,
21 being charitably put, a mess. Did that have anything to do
22 with the accusations in 1988 or '89?

23 A. No.

24 Q. Any of that have anything to do with that?

25 A. No.

DOCKET 15-CR-136-F

PULHAM - DIRECT

19

1 MR. BARRETT: That's all I have, Your Honor.

2 May the witness be excused.

3 MR. ANDERSON: Of course.

4 THE COURT: You may step down. You're excused. Thank
5 you.

6 Mr. Barrett, if I remember right, you had another
7 witness you wished to call.

8 MR. BARRETT: One other, Your Honor, Mr. Terry Pulham.

9 THE COURT: All right.

10 (Witness sworn.)

11 COURTROOM DEPUTY: Please take a seat, state and spell
12 your name for the record.

13 THE WITNESS: Name is Terry Pulham, T-e-r-r-y
14 P-u-l-h-a-m, middle name Sanders.

15 TERRY PULHAM, DEFENDANT'S WITNESS, DIRECT EXAMINATION

16 BY MR. BARRETT:

17 Q. And where do you live?

18 A. I live in Payson, Utah.

19 Q. And you're acquainted with the defendant, J.C. Pulham?

20 A. Yes.

21 Q. How do you know him?

22 A. I call him my son. He's actually my stepson.

23 Q. Now, you're aware, are you not, of the pending charges for
24 which your stepson is here to be sentenced?

25 A. Yeah.

1 Q. Do you approve of that conduct in any way?

2 A. No, I don't.

3 Q. Do you excuse that conduct in any way?

4 A. Nope.

5 Q. You're also aware, are you not, that allegations were made
6 in 1988 and '89, particularly 1989 that we're aware of --

7 A. Yes.

8 Q. -- that one Crystal Pulham --

9 A. Also my stepdaughter.

10 Q. -- had been sexually abused for a period of years?

11 A. Yes, that's --

12 Q. And did Crystal make any accusations or allegations as well
13 that Mr. Pulham had sexually abused her younger sister Susan?

14 A. Yes.

15 Q. And when you heard that, what was your reaction?

16 A. I was kind of flabbergasted and, you know, very much
17 concerned about the allegations. I, you know -- a son and a
18 daughter, I didn't want to basically throw either one of them
19 under the bus, so to speak. I was concerned, so I consulted
20 with my ex-wife Debbie and made arrangements for them to be
21 examined by a doctor that, I guess, dealt with sexual abuse.

22 And so we, you know, took the girls and had them
23 examined and were told by the doctor that they were still
24 virgins.

25 Q. Were these examinations in part in cooperation with the

1 Department of Family Services of Utah?

2 **A.** I don't really think so. It was just we went on our own.
3 Then as part of, I guess, the examination, arrangements were
4 made for them to go to some counseling there in the complex
5 where the doctor's office was.

6 **Q.** Okay. Were you aware that the results of that physical
7 examination were provided to or made known to Department of
8 Family Services?

9 **A.** I -- I didn't really recall.

10 **Q.** Specifically, that on May 1st, 1989, Family Services phoned
11 to Dr. Freestone who advised that there's no evidence of sexual
12 intercourse on either one of the girls?

13 **A.** Yeah.

14 **Q.** He goes on to opine without any stated basis that there may
15 have been sexual contact but no penile penetration, but they
16 were intact individuals?

17 **A.** Yes.

18 **Q.** That was reported to you?

19 **A.** Yeah.

20 **Q.** Anything else reported to you?

21 **A.** Well, he stated that he couldn't say for sure that there
22 wasn't any touching. There was no way to prove that.

23 **Q.** But certainly there was no evidence of the intercourse and
24 penetration that Gail [sic] --

25 **A.** Well, at times Crystal made the allegations that he raped

1 her -- Crystal, sorry -- and that he was continually having
2 sexual intercourse with her.

3 **Q.** So you wanted to have that checked?

4 **A.** Yeah.

5 **Q.** You did?

6 **A.** Yeah.

7 **Q.** And it turned out apparently not to be the case?

8 **A.** Not to be the case.

9 **Q.** Has J.C. ever admitted to anyone that you're aware of that
10 any of these activities occurred?

11 **A.** No.

12 **Q.** He has consistently denied any of that?

13 **A.** Consistently denied it.

14 **Q.** Now, your daughter Crystal in the Presentence Report at
15 page 9, paragraph 42, indicates as follows, and I quote: "The
16 probation officer spoke with Crystal Pulham who verified that
17 she, her sister Susan and friend Jessica Hyde had been
18 victimized sexually by the defendant. Her father, Terry
19 Pulham, has related to her that the first time he observed
20 inappropriate sexual contact between Crystal and the defendant
21 occurred when Crystal was 4 years old and the defendant was 7
22 years old."

23 Did you ever make that statement to Crystal?

24 **A.** I told her an instance when they had got out of, you know,
25 the bathtub and were chasing each other, you know, around the

1 house, you know, kind of playing. But I really didn't see
2 anything sexual. But I was uncomfortable with it, you know.
3 That was, you know -- J.C. was 6 and Crystal was like 3 when I
4 married their mother, and so being a, you know, new parent, I
5 was a little bit uncomfortable with the playing around while
6 they were naked.

7 **Q.** Okay. But she's indicating to the probation officer,
8 Mr. Olive, that you observed inappropriate sexual contact. Did
9 you ever observe inappropriate sexual contact --

10 **A.** No.

11 **Q.** -- between Crystal and J.C.?

12 **A.** No.

13 **Q.** At any time?

14 **A.** No.

15 **Q.** Did you ever tell her that?

16 **A.** I told her about them running around the house naked.

17 **Q.** Okay. But no inappropriate sexual contact?

18 **A.** No.

19 **Q.** Now, this referral to Benchmark, who made that?

20 **A.** I got a call -- I don't remember the date -- but his
21 counselor from school called me and said that J.C. was very
22 upset and acting suicidal from accusations from Crystal that he
23 was molesting and sexually, you know, I guess --

24 **Q.** As a result of that report, what did you do?

25 **A.** Well, the counselor told me that they had been -- had made

1 contact, I guess, with DFS which is, you know, their
2 responsibility if that kind of thing was brought up. And then
3 the -- I'm not sure if it was the counselor or the DFS person
4 that -- I guess it was DFS that told me they had made
5 arrangements to send J.C. to Benchmark for an evaluation and
6 would -- she said she'd made the arrangements and asked if they
7 could go ahead and, you know, send him to Benchmark.

8 **Q.** And did you say okay?

9 **A.** Yes.

10 **Q.** All right.

11 **A.** Well, they told me they made the right arrangements, but
12 they didn't follow through with my doctor and so basically I
13 had to declare bankruptcy because of it.

14 **Q.** Okay. Because of the bills as a result of that?

15 **A.** Yeah, it was \$36,000 for, what, 30-some odd days.

16 **Q.** Not months?

17 **A.** No.

18 **Q.** 38 days?

19 **A.** I guess that was --

20 **Q.** Give or take?

21 **A.** Yeah.

22 **Q.** All right. And you were burdened with that bill and filed
23 bankruptcy, then?

24 **A.** Well, it forced me into -- well, after the divorce from,
25 you know, my ex-wife and basically everything was dumped on me

DOCKET 15-CR-136-F

PULHAM - DIRECT

25

1 and they started garnishing my wages, so I had to file
2 bankruptcy.

3 **Q.** Were you ever advised by DFS, the school or law enforcement
4 that this placement at Benchmark was in lieu of or a substitute
5 for going to jail?

6 **A.** No.

7 **Q.** So if Crystal were to report that J.C., age 16, was
8 admitted to a facility referred to by Crystal as Benchmark, a
9 behavioral counseling center, in lieu of jail, that wouldn't be
10 correct?

11 **A.** No. No, it was my understanding, you know, he was given
12 counseling because of his state of mind, plus they were, I
13 guess, testing him to see if he had those kind of tendencies.

14 **Q.** When you say counseling because of his state of mind, what
15 were you told about that?

16 **A.** Well, I was told that he was suicidal. I was a concerned
17 parent.

18 **Q.** Now, again, referring to Crystal and her allegations or
19 reports about what is occurring while J.C. is at Benchmark, at
20 page 9, paragraph 43 of the Presentence Report it is reported
21 that after disclosures and her brother was involved in
22 treatment at Benchmark Behavioral Health for a few months -- he
23 was only there 30-some days, not a few months?

24 **A.** Yeah.

25 **Q.** -- that I guess it was your -- would have been your ex-wife

DOCKET 15-CR-136-F

PULHAM - DIRECT

26

1 Deborah Pulham --

2 **A.** Yeah.

3 **Q.** -- was upset and called -- and made Crystal tell Benchmark
4 staff that the abuse never happened.

5 Did you witness or were you aware of any such kind of
6 contact?

7 **A.** I was -- I was not aware of any of that, if it -- I was not
8 aware if it did or did not occur.

9 **Q.** Were you -- did you visit J.C. while he was at Benchmark?

10 **A.** We went up there, I believe it was either on a Friday or --
11 about once a week.

12 **Q.** And who is the we?

13 **A.** The whole family.

14 **Q.** And who would that have been?

15 **A.** Would have been Debbie and I and Crystal and Susan and
16 Terry.

17 **Q.** And so Crystal -- the family was together during these
18 visits?

19 **A.** Yes.

20 **Q.** Did you ever hear any effort by anyone to cause Crystal --
21 or make Crystal withdraw an accusation?

22 **A.** No.

23 **Q.** Do you believe that that occurred?

24 **A.** (Witness shakes head.)

25 **Q.** You didn't hear that?

1 **A.** I didn't hear that.

2 **Q.** Okay.

3 **A.** I didn't know that she had withdrawn statements.

4 **Q.** Was J.C. ever charged with any offense?

5 **A.** As far as I knew, no.

6 **Q.** Okay.

7 **A.** I just assumed that he would either -- you know, with their
8 findings they would charge him and remove him from the home or,
9 you know -- which never happened, so -- and no, as far as I
10 knew, no charges were ever brought against him.

11 **Q.** He was never placed in juvenile custody, never under
12 supervision?

13 **A.** No.

14 **Q.** Okay. And never any further complaints of anything?

15 **A.** No.

16 **Q.** The -- Crystal also indicates that her -- that parental
17 rights were terminated with regard to her when she was 14
18 shortly after these allegations. Do you recall any such event?

19 **A.** During my -- the divorce between Debbie and I both J.C. and
20 Crystal were -- I forget the term where they basically put them
21 out on their own.

22 **Q.** Emancipated?

23 **A.** Emancipated. And, you know, I asked Debbie why she did
24 that and she just said that, you know, Crystal wasn't there and
25 J.C. was old enough to be on his own.

1 Q. Crystal references in a later interview being involved with
2 a, quote, unquote, "cocaine dealer" as a result of this
3 termination or emancipation. Do you know what that's about?

4 A. No -- well, she started pressuring us to let her spend the
5 night over at her girlfriend's house, and, you know, we
6 occasionally would let her do that. And then she wanted to
7 spend more time and more time there, and, you know, we were
8 starting to get a little uncomfortable with that.

9 I got -- I got a call one evening and it was the Orem
10 police calling to say that Robert had been -- her girlfriend's
11 father -- had been picked up for drunk driving and that Crystal
12 was in the car with him and she was sitting next to him like a
13 girlfriend. And, you know, that made me quite uncomfortable.
14 So I through my work -- I work for BYU as a landscaper --
15 talked with a counselor there and he told me that, you know, by
16 consulting with him that he would call DFS to see if there was
17 something going on.

18 Then I don't know how much longer I got a call from my
19 bishop and, you know, Debbie and I were asked to come down and
20 talk to him. And he told me of incidents where one of the
21 persons in our ward had been out pheasant hunting and saw
22 Crystal and this guy having sex in the back of the truck.

23 Q. But, in any event, you didn't throw her out of the house?

24 A. No. But I don't know if Debbie was trying to, you know,
25 shield me. I -- I believe Debbie wrote a piece of paper giving

DOCKET 15-CR-136-F

PULHAM - DIRECT

29

1 this Robert guy permission to cross state lines with her, so I
2 don't know if that's signing away her rights.

3 **Q.** Okay. But your ex-wife did that?

4 **A.** She did that.

5 **Q.** Did --

6 **A.** And then I asked her, you know --

7 THE COURT: Mr. Pulham, there's no question pending.

8 BY MR. BARRETT:

9 **Q.** Did Crystal ever describe to you what she characterized as
10 her first sexual experience?

11 **A.** Unfortunately, I don't know -- it was in a conversation,
12 you know, years later, and she just come out and -- I don't
13 know if she was trying to embarrass me or what. She come out
14 and told me that her first sexual experience was with a Mexican
15 kid from school and she said it hurt like hell.

16 I don't know why she told me that, you know. And I
17 guess in the court of law that's just hearsay.

18 **Q.** Well, we'll worry about that later.

19 **A.** But it did embarrass the heck out of me.

20 **Q.** Yeah. So she didn't describe any sexual experiences with
21 J.C., then?

22 **A.** No.

23 **Q.** Of any kind?

24 **A.** No.

25 **Q.** And so far as you know, when J.C. was at the -- was

DOCKET 15-CR-136-F

PULHAM - CROSS

30

1 hospitalized, she withdrew any allegations of rape?

2 **A.** I knew nothing about that.

3 MR. BARRETT: All right. I have nothing further, Your
4 Honor. Thank you.

5 THE COURT: Thank you.

6 MR. BARRETT: There will be some questions by
7 Mr. Anderson here.

8 THE WITNESS: Oh, okay.

9 THE COURT: Mr. Anderson, this witness is passed for
10 any questioning by the Government.

11 CROSS-EXAMINATION

12 BY MR. ANDERSON:

13 **Q.** I take it that it is your testimony and you want the Court
14 to believe that your son J.C. here was hospitalized at
15 Benchmark because he had been victimized by his younger sister
16 Crystal?

17 **A.** You know, that -- out of concern I didn't want to throw her
18 under the bench [sic] or --

19 **Q.** Well, you have. You already have, Mr. Pulham. Let's get
20 it straight. Your testimony --

21 MR. BARRETT: I will object to that as argumentative
22 and an improper form of question, Your Honor.

23 MR. ANDERSON: I will withdraw.

24 THE COURT: Overruled. Please continue.

25 BY MR. ANDERSON:

DOCKET 15-CR-136-F

PULHAM - CROSS

31

1 Q. Mr. Pulham, is it your testimony that your son J.C. went to
2 Benchmark because he had been victimized by his younger sister
3 Crystal, yes or no?

4 A. If you put it that way, yeah, I guess.

5 Q. All right. We'll take it that way.

6 Now, Mr. Pulham, I understand that a few years ago
7 Crystal allowed her children to come visit you; is that
8 correct?

9 A. Yeah. I was living in Provo after the divorce.

10 Q. And you recall her telling you that if you let J.C. around
11 her children she was going to burn him and watch his flesh fall
12 from his body if she found out that you left her children alone
13 with J.C. Do you recall her telling you that?

14 A. No.

15 Q. So that would be something she made up?

16 A. She didn't tell it to me, so. . .

17 Q. Now --

18 A. The only thing I remember is she brought -- when Katrina
19 and J.C. were living there with me, she brought -- she had her
20 daughter there and had given her a bath and was chasing her
21 around, you know, and telling, you know, she had a cute looking
22 butt.

23 Q. What I asked you, Mr. Pulham, was about whether or not your
24 daughter said, "Don't let my children around J.C. Pulham"?

25 A. No.

DOCKET 15-CR-136-F

PULHAM - CROSS

32

1 Q. That's not --

2 A. At the time, no.

3 Q. The next question I've got for you is do you recall telling
4 your daughter Crystal that your son had been arrested for
5 indecent exposure and masturbating in public?

6 A. No.

7 Q. That didn't happen?

8 A. There was some incident in Spanish Fork, but I knew not
9 what the charges or anything was about.

10 Q. So you didn't tell your daughter about that --

11 A. No.

12 Q. -- when she told you she didn't want her children around
13 J.C.?

14 A. No.

15 Q. Now, how often do you see J.C.?

16 A. Off and on every, what, three or four months or so.

17 Q. You go up to Evanston and visit, do you?

18 A. Yeah, we come up and visit and and Susan and her
19 boyfriend -- husband used to come up and visit.

20 Q. Before the arrest, when was the most recent time you had
21 visited Mr. Pulham?

22 A. Sometime the previous summer.

23 Q. Go to his house, did you?

24 A. Yeah.

25 Q. Anything out of the ordinary?

1 **A.** Not that I recall.

2 **Q.** Now, Mr. -- Mr. Barrett asked you about Crystal, if you
3 had -- Crystal's let her children come visit you; is that
4 correct?

5 **A.** Yeah.

6 **Q.** Where is she living now?

7 **A.** She lives down in, I believe it is, Brownwood, Texas.

8 **Q.** And what does she do for a living?

9 **A.** I guess now she's working at a juvi lockup.

10 **Q.** Juvenile detention center?

11 **A.** Yeah.

12 **Q.** What type of job does she have?

13 **A.** I guess she's some kind of guard.

14 **Q.** You don't know -- do you know what she does?

15 **A.** Well, that's what she told me, she was a guard.

16 **Q.** So just so we get it straight, the only reason that J.C.
17 went to that facility at Benchmark that you had to pay for was
18 because his sister was making these allegations against him and
19 he was suicidal?

20 **A.** Well, I was concerned, yes.

21 **Q.** He had been victimized by his sister?

22 **A.** If that's the way you want to put it.

23 **Q.** Is that the way you want to put it?

24 **A.** I really don't, but that's --

25 **Q.** But that's what you want the Court to believe?

1 **A.** Well, I allowed him to, you know, under advice from DFS be
2 taken to that facility and them to do their investigation and
3 whatever.

4 **Q.** Now, it wasn't just Crystal that was making allegations
5 against your son, was it?

6 **A.** At that time, as far as I know, it was just Crystal.

7 **Q.** Somebody else made allegations that your son had molested
8 them as well during that time frame; isn't that correct?

9 **A.** I had heard, I guess, Jessica.

10 **Q.** Jessica Hyde?

11 **A.** Yeah. They lived up around the block.

12 **Q.** They were up around the block?

13 **A.** (Witness nods head.)

14 **Q.** What do you know about Jessica Hyde?

15 **A.** Just that I guess she made an accusation.

16 **Q.** Just that she made an accusation. Do you know anything
17 else about her?

18 **A.** Not really.

19 **Q.** And what happened with that allegation?

20 **A.** Apparently nothing.

21 **Q.** Apparently nothing. Didn't concern you?

22 **A.** Well, I assumed that DFS and if there was any indication
23 that they would have my son taken out of the home and locked
24 up, and so. . .

25 MR. ANDERSON: I don't have anything else, Judge.

DOCKET 15-CR-136-F

REINERT - DIRECT

35

1 MR. BARRETT: Nothing further. Thank you.

2 We have no further witnesses, Your Honor.

3 THE COURT: All right. It seems like we've -- we're
4 on the topic of the enhancement in the guideline.

5 Does the Government have any case?

6 MR. ANDERSON: Yes, Your Honor. I would like to call
7 Shannon Reinert to the stand.

8 (Witness sworn.)

9 COURTROOM DEPUTY: Please take a seat. State and
10 spell your name for the record.

11 THE WITNESS: Shannon Reinert, S-H-A-N-N-O-N
12 R-E-I-N-E-R-T.

13 SHANNON REINERT, PLAINTIFF'S WITNESS, DIRECT EXAMINATION
14 BY MR. ANDERSON:

15 Q. Miss Reinert, what do you do for a living?

16 A. I'm a Special Agent with Homeland Security investigations.

17 Q. What's your current assignment?

18 A. I'm currently assigned to the Wyoming Internet Crimes
19 Against Children Task Force.

20 Q. Pursuant to your duties and responsibilities with the
21 Wyoming Internet Crimes Against Children Task Force, are you
22 familiar with the case before the Court, that is, United States
23 of America versus J.C. Pulham?

24 A. Yes, sir, I am.

25 Q. Are you the case agent in this matter?

1 **A.** Yes, sir, I am.

2 **Q.** Pursuant to your duties and responsibilities as the case
3 agent in this particular matter, have you conducted or -- have
4 you conducted interviews of individuals in an attempt to learn
5 about the defendant's past?

6 **A.** Yes, sir, I have.

7 **Q.** Are you familiar with Crystal Pulham?

8 **A.** I am.

9 **Q.** Indeed, were you asked by myself to interview Ms. Pulham
10 concerning the topic of conversation we've had before the Court
11 here this afternoon, that is, whether or not sexual abuse was
12 visited upon her or perpetrated upon her by her brother J.C.?

13 **A.** Yes, sir.

14 **Q.** When did that interview take place?

15 **A.** February 5th of this year.

16 **Q.** And could you tell us, please, prior to February of 2016,
17 were you aware generally during the course of your initial
18 investigation of the defendant, indeed, up until the time that
19 he changed his plea in this particular matter, that there were
20 allegations of sexual abuse perpetrated by him upon siblings or
21 others during childhood years?

22 **A.** No, sir, I was not.

23 **Q.** Did you have any way to learn of that through the check --
24 through checking public databases such as NCIC or other law
25 enforcement databases?

1 **A.** No, sir.

2 **Q.** How was it that you learned that there were allegations
3 being made of that sort or allegations had been made of that
4 sort against Mr. Pulham?

5 **A.** I learned of it through the presentencing process from U.S.
6 Probation.

7 **Q.** And that would have been the Presentence Report that was
8 conducted by Mr. Olive?

9 **A.** Yes, sir.

10 **Q.** So on February 5th you interview Crystal Pulham. Tell us a
11 little bit about that interview. Was it face to face?

12 **A.** No, sir, it was telephonic.

13 **Q.** At the time that you interviewed Ms. Pulham, where was she?

14 **A.** She was in Texas, sir.

15 **Q.** What did she tell you she was doing for a living these
16 days?

17 **A.** She told me that she was a corrections officer in a
18 juvenile detention facility in Texas.

19 **Q.** Did she tell you anything about what type of work that she
20 was doing in regards to the corrections work?

21 **A.** She imparted to me that she was a guard at the prison and
22 oftentimes would act as a mentor towards the children that she
23 was tasked with guarding.

24 **Q.** Did the conversation at some point turn to her relationship
25 with her brother?

1 **A.** It did.

2 **Q.** Tell us about what she told you in regards to any sort of
3 sexual activity that she might have had with her brother?

4 **A.** Crystal imparted to me that her relationship with her
5 brother was very sexually charged, using her words. She told
6 me that from a very young age regular childhood games would
7 take on a sexual slant to them. She recalled times when they
8 would play Marco Polo and J.C. would have them do so nude. She
9 also imparted to me that J.C. acted somewhat as a ring leader
10 among the siblings and childhood friends wherein he would
11 either have children act out upon one another sexually and
12 watch for his enjoyment, or would offer her up to his friends
13 for sexual purposes wherein he would watch them perform
14 together.

15 She also imparted to me that she could recall from the
16 age of 4 and a half up through the age of 12 interactions being
17 sexual, the most egregious one that she described to me she
18 said that J.C. would spread the lips of her vagina and place
19 his penis upon it.

20 **Q.** Did she ever describe intercourse or activity that would
21 constitute sexual intercourse, the insertion of his penis in
22 her vagina?

23 **A.** No, she was very clear that there was no penetration that
24 she could recall.

25 **Q.** Did she say that this type of activity occurred on more

1 than one occasion?

2 **A.** Yes, sir.

3 **Q.** Did she tell you anything about the circumstance -- how she
4 revealed or did she ever disclose this activity to anyone?

5 **A.** She did. She recalled that at the age of 12 she had been
6 out with some friends at the mall or some other place out of
7 the home, and when she returned home, she found her father in
8 the front room area by himself at which point she had asked
9 where her sister Susan was. Her father replied that he wasn't
10 sure where she was, at which point she recalled having gone to
11 J.C.'s bedroom door and found it locked and started knocking on
12 it and told me that with her father's help she was able to get
13 the door open.

14 At the point that the door opened, she said that J.C.
15 and a neighborhood boy were in the room with her sister Susan
16 and that both boys were in the act of pulling up their pants
17 when the door was opened.

18 **Q.** In regards to subsequent events in the house, what did
19 Crystal relate to you once the disclosure had been made where
20 this incident occurred?

21 **A.** She recalled and told me that at that point J.C. had gone
22 to a facility that she referred to as Benchmark, and how she
23 explained that facility to me was that it was a behavioral
24 counseling center. Once at Benchpoint -- excuse me --
25 Benchmark, Crystal told me that she was forced by her mother to

1 approach the Benchmark staff and tell them that everything that
2 she had alleged in regards to sexual activity against her
3 brother were untrue.

4 **Q.** And why did she say she did that?

5 **A.** To appease her mother. She was forced.

6 **Q.** And mother's name was?

7 **A.** I believe it was Deborah.

8 **Q.** In regards to Ms. Pulham's recounting of these incidents to
9 you, what was her affect during this period of time, during
10 this interview?

11 **A.** She was very emotional. There were several times in our
12 conversation where we'd have to pause and she would need to
13 collect herself. And she was very angry.

14 **Q.** Do you recall her relating to you an incident where she
15 entrusted her children to her father?

16 **A.** I do.

17 **Q.** Tell us about that, please.

18 **A.** Crystal told me that approximately five years ago she had
19 allowed her children to visit their grandfather and when she
20 learned that J.C. might be in proximity of her children and
21 grandfather, she told me that she told her father that if J.C.
22 were to come into contact or have any alone time with her
23 children, she would set him on fire and watch his flesh fall
24 from his body.

25 **Q.** Pretty strong statement?

1 **A.** Very.

2 **Q.** Now, when we're talking about her father, are we talking
3 about Terry Pulham that testified here today?

4 **A.** Yes, sir.

5 **Q.** In regards to your investigation, did you also have
6 occasion to come in contact with an individual by the name of
7 Jennifer Hyde?

8 **A.** Jessica Hyde, sir.

9 **Q.** I apologize. That was my mistake. I apologize. Jessica
10 Hyde?

11 **A.** Yes, sir.

12 **Q.** And when was it that you came in contact with Jessica Hyde?

13 **A.** This morning.

14 **Q.** Was that the first time that you attempted to reach
15 Ms. Hyde?

16 **A.** No, sir.

17 **Q.** How did you come in contact with Ms. Hyde?

18 **A.** Also via telephone.

19 **Q.** Tell us the circumstances of your telephone conversation
20 with Ms. Hyde.

21 **A.** I was attempting to interview Ms. Hyde for the same or
22 similar purposes as having interviewed Crystal Pulham,
23 allegations of sexual molestation by the defendant in their
24 youth.

25 **Q.** And could you tell us, please, what Ms. Jessica Hyde, first

1 of all, told you she was doing for a living currently?

2 **A.** Yes, sir. She's a soldier in the U.S. Army and has been
3 for the past 12 years.

4 **Q.** Where is she currently stationed?

5 **A.** I'm not familiar with her current duty station, sir.

6 **Q.** Where is she currently living?

7 **A.** Utah, sir.

8 **Q.** What did she tell you in regards to her current situation
9 or status?

10 **A.** She's currently going through a medical board process for
11 neurological injuries sustained resultant from a deployment to
12 Iraq.

13 **Q.** Did you ask her anything about her relationship with the
14 defendant J.C. Pulham when she was a child?

15 **A.** I did.

16 **Q.** And what did she tell you?

17 **A.** I began by letting her know that I was in possession of
18 police reports that basically indicated that she had said at
19 the age of 9 or 10 that J.C. had made her undress and at that
20 time had grabbed her private parts. And when I told her that,
21 she said to me, "Oh, no, it was much more than that." She went
22 on to tell me how she was a neighbor girl of the Pulhams and
23 from the ages of 9 to 10 she was molested by J.C.

24 What she recalls having done to her was being told to
25 strip nude in front of J.C., at which point he would stare at

1 her for enjoyment. Over the course of the two years she
2 detailed to me how the molestation advanced from stripping down
3 nude in front of J.C. to being made to perform oral sex upon
4 him and finally to being made to engage in vaginal intercourse
5 with him.

6 **Q.** During the recounting of this, what was Ms. Hyde's affect?

7 **A.** Shock and disgust and brevity.

8 **Q.** In regards to Ms. Hyde, at the time that she was 9, 10, 11
9 years old when this activity was occurring, did she tell you
10 how old Mr. J.C. Pulham was?

11 **A.** She recalled him being 15 or 16 at the time.

12 **Q.** So she's prepubescent at the time?

13 **A.** That's correct.

14 **Q.** In regards to the child pornography that you found on
15 Mr. Pulham's computer, approximately -- and again, I'm asking
16 for a rough approximation -- what was the rough approximation
17 of the number of the images -- either images or movies that you
18 discovered on equipment seized from Mr. Pulham?

19 **A.** We discovered approximately 20 videos and approximately 110
20 images.

21 **Q.** And of the 20 videos and 100 and some images that you
22 discovered, could you characterize for us, please, the
23 approximate age group of most of the children were that were
24 depicted in those videos?

25 **A.** I would say they were approximately 9 to 12 years old.

DOCKET 15-CR-136-F

REINERT - CROSS

44

1 Q. Are you satisfied based upon the forensic evaluation of
2 Mr. Pulham's equipment that you have, in fact, found all of the
3 images of child pornography contained on those images?

4 A. No, sir.

5 Q. Why not?

6 A. There is a folder upon the computer that the defendant
7 indicated we would find that is encrypted. At the time of
8 interview, the defendant couldn't recall the password to this
9 encrypted file and to this date we've still been unable to gain
10 access to it.

11 Q. How large a file it it?

12 A. I'm not familiar with that, sir.

13 Q. You have someone else helping you with the forensics, as I
14 recall?

15 A. Yes, sir.

16 MR. ANDERSON: I don't have anything else, Judge.
17 Thank you.

18 THE COURT: All right. Thank you.

19 This witness is passed for any examination by the
20 defendant.

21 MR. BARRETT: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. BARRETT:

24 Q. With regard to Ms. Hyde, she admittedly at a very young age
25 apparently reported a single instance or allegation of abuse;

1 is that correct?

2 **A.** I'm aware that she reported to her parents a single
3 instance, sir.

4 **Q.** Did you review the DFS paperwork in this matter?

5 **A.** Yes, sir, I did.

6 **Q.** And with regard to Ms. Hyde, did you review that?

7 **A.** Yes, sir.

8 **Q.** And you know that Ms. Hyde's mother said that Ms. Hyde had
9 been seeing a therapist and that the therapist requested they
10 contact DFS. Apparently what happened was a 15-year-old boy by
11 the name of J.C. Pulham was a neighbor down the street. He
12 asked Jessica to remove her clothing. He grabbed her between
13 her legs and also touched her breasts. These are the only
14 details Mrs. Hyde knows. She feels it was a one-time incident.

15 Are you aware of any other reports of any other
16 incidents prior to yesterday?

17 **A.** No, sir.

18 **Q.** Are you aware that the DFS work -- assessment worksheet and
19 result indicated that the parents of Ms. Hyde stressed or
20 indicated they felt this single incident occurred six months
21 prior to the report?

22 **A.** I'm aware of what the report says, sir.

23 **Q.** And then the result -- the risk assessment worksheet and
24 result in the case was that -- I don't know who wrote it, but
25 one of the investigators says, "It does not appear anything has

1 happened for almost a year. Police are not filing any
2 charges."

3 **A.** I've read it, sir.

4 **Q.** Now, in fact, no charges were filed, were they?

5 **A.** Not that I'm aware of, sir.

6 **Q.** Then a year later come the allegations from Crystal; is
7 that correct?

8 **A.** If I recall correctly, sir, the two police reports that I
9 have viewed were from 1988.

10 **Q.** You've seen police reports?

11 **A.** Yes, sir.

12 **Q.** You talking about the DFS reports or police reports?

13 **A.** They might be DFS reports, sir, with names of police
14 officers on there. I could be confusing the two.

15 **Q.** If you've reviewed the DFS reports you're familiar with
16 Crystal's allegations on April 10th of 1989 that from age 8 to
17 10 Crystal says that sexual intercourse took place in Payson.
18 Do you remember that?

19 **A.** I recall reading it, sir.

20 **Q.** Do you recall reading that Crystal said when her brother
21 molested her that there was actual intercourse?

22 **A.** I recall reading that, sir.

23 **Q.** But yesterday -- not yesterday -- I'm sorry -- that was
24 Ms. Hyde apparently about the 5th of this month in interviewing
25 Crystal, she said that there was no penetration?

1 **A.** That's correct, sir.

2 **Q.** Well, what -- he just -- you described spreading of the
3 vaginal lips and labia and other activity. Was any of that
4 other sort of activity described by Crystal to DFS in 1989?

5 **A.** Not that was reported, sir.

6 **Q.** Is there unreported activity that you're aware of?

7 **A.** Not that I'm aware of, sir.

8 **Q.** We've had a good deal of conversation primarily in
9 cross-examination that J.C. went to Benchmark because he was
10 blaming his sister Crystal for victimizing him. Do you recall
11 that?

12 **A.** I recall reading that, sir.

13 **Q.** You recall the question by Mr. Anderson?

14 **A.** Yes, sir.

15 **Q.** Okay. What was the -- what prompted the admission to
16 Benchmark?

17 **A.** According to the DFS reports, it was out of concern,
18 parental concern, for J.C.'s well-being.

19 **Q.** On April 13th of 1989, it was reported to the DFS worker by
20 Lieutenant Carter who stated that J.C. is suicidal, according
21 to the school. Do you recall that?

22 **A.** I recall reading it, sir.

23 **Q.** And this same officer five days later indicated that he had
24 interviewed J.C. and that in the 16 years he's been on the
25 police force he's never interviewed such a difficult

1 adolescent. Do you remember that?

2 **A.** I recall reading it, sir.

3 **Q.** He denies everything, right?

4 **A.** As it was written, sir.

5 **Q.** Refuses to agree with the officer.

6 Now, also what was the admission history of the
7 present illness upon admission to Benchmark, do you know?

8 **A.** No, sir.

9 **Q.** Why don't I show you a summary of J.C.'s records from
10 Benchmark at the bottom of which is a History of Present
11 Illness. Do you see that?

12 **A.** I do, sir.

13 **Q.** With permission of the Court, why don't you read that to
14 the Court.

15 **A.** "This 17-year-old white male was admitted with the
16 allegation by his younger 14-year-old sister that he had
17 sexually abused her. This had been apparent in terms of her
18 accusation and the patient's denial of this for approximately
19 three to four months. The patient had been doing more poorly
20 in school, had great anxiety, and had trouble falling asleep.
21 He felt worthless, hopeless and helpless, and he had increased
22 guilt associated with one homosexual encounter two years before
23 and with increased guilt feelings associated with the sexual
24 seduction by a girlfriend of a friend at his school. He had
25 difficulty concentrating. His suicidal feelings were

1 increasing. He could not fall asleep."

2 **Q.** So the history, for purposes of admission, was that he was
3 being accused of sexual misconduct, correct?

4 **A.** Yes, sir.

5 **Q.** He was depressed?

6 **A.** Yes, sir.

7 **Q.** Suicidal?

8 **A.** Yes, sir.

9 **Q.** Now, Crystal also withdrew those allegations while J.C. was
10 at Benchmark, didn't she?

11 **A.** Yes, sir.

12 **Q.** Did she ever report to any hospital staff member that she
13 was being forced to do that by anyone?

14 **A.** She told me she did, sir.

15 **Q.** Is that the language in your report which says that
16 "Crystal stated she recalls telling a staff member verbatim
17 'I'm supposed to tell you the allegations I've made against
18 Pulham' are not true"?

19 **A.** Yes, sir.

20 **Q.** So she walked up to a staff member and said, "I'm supposed
21 to tell you those allegations aren't true"?

22 **A.** As she told it to me, sir.

23 **Q.** And the response from the staff member was "They aren't
24 true?" is that correct?

25 **A.** Yes, sir.

DOCKET 15-CR-136-F

REINERT - REDIRECT

50

1 Q. To which Crystal angrily replied, "Listen to me. I'm
2 supposed to tell you the allegations aren't true"?

3 A. That's what I was told, sir.

4 Q. So they may not have been true --

5 A. Perhaps not, sir.

6 Q. -- and she's supposed to tell them they're not true. That
7 would be the right thing to do if they weren't true, wouldn't
8 it be?

9 A. Yes, sir.

10 MR. BARRETT: I believe that's all I have. Thank you,
11 Your Honor.

12 THE COURT: Thank you.

13 Any redirect?

14 REDIRECT EXAMINATION

15 Q. (BY MR. ANDERSON) And, once again, in regards to when
16 Crystal told you, she didn't tell the staff folks at the
17 hospital, "I lied"; she said, "I'm supposed to tell you these
18 things didn't happen"?

19 A. That's correct.

20 MR. ANDERSON: Thank you. I don't have anything else.

21 THE COURT: Thank you. You may step down.

22 MR. ANDERSON: I've got nothing else to present on
23 this issue, Judge.

24 THE COURT: All right. Let's hear argument on the
25 state of the record as to the application of the specific

1 offense characteristic. Who wishes to -- Mr. Barrett,
2 certainly welcome your argument, unless you want to have
3 Mr. Anderson go first.

4 MR. BARRETT: No, Your Honor, I'll just respond if
5 necessary.

6 I think the issues set forth in this matter and with
7 regard to this particular specific offense characteristic are
8 very plain. We have a young lady who gives different stories
9 about a 26-year-old unsuccessful allegation and perhaps even an
10 unsuccessful attempt to accuse her then -- not then -- he's
11 still her brother -- J.C. Pulham of not just sexual contact,
12 but intercourse; not just intercourse, but actual intercourse;
13 not just actual intercourse, but multiple times, which as of
14 yesterday has evolved itself to well, okay, maybe it was not
15 intercourse. There wasn't any penetration; it was something
16 different, without any explanation as to why that conduct and
17 the description of that conduct changes.

18 It doesn't take much to say, geez, I just didn't know
19 what I was talking about when I was 14 years old, although she
20 knew what she was talking about well enough to have a child at
21 age 14 with a, quote, unquote, cocaine dealer.

22 Now, I'm happy she's doing well. I'm happy she has a
23 job. I'm happy she is hanging around juveniles, and I hope
24 she's a good mentor to them. I hope she teaches them to use
25 specific language when they have something to say to her, for

1 example, "I'm being forced to lie," not, "I'm supposed to tell
2 the truth," not, "I'm supposed to let you know that none of
3 these things happened, but that I'm being forced to -- I'm
4 being forced to lie," which is what she told the probation
5 officer at the PSR report, that she reported, in quotes, "I'm
6 being forced to do this." Not true. It is not true on a bunch
7 of levels, but it is not because it is also the kind of
8 statement she can't keep track of while she's mentoring
9 juveniles in a correctional institution.

10 Then there's the implication that J.C. Pulham was at
11 Benchmark because they want to check and see if he's a pervert.
12 They want to check and see if he's a child molester. Well,
13 they do. And what happens during this examination? The
14 so-called victim comes up and says, "I'm supposed to tell you
15 it is not true. I'm supposed to tell you it is not true." We
16 have no idea what the accent was.

17 What everyone wants you to say is as long as
18 there's -- as long as there are a number of allegations here,
19 that's good enough. And as long as there's pieces of paper
20 that say there were allegations, that's good enough. Well, it
21 shouldn't be. I know the standard of proof in this particular
22 kind of case and this particular situation is quite low. It is
23 a preponderance. All of us in this room could probably get
24 away with saying, well, there is enough smoke here for me to
25 find this is all true and so I'm going to add five or ten --

1 five or six years to this man's sentence. You know, believe
2 the children, even if none of the children's allegations have
3 ever been corroborated; no prosecutions, no medical evidence,
4 pure allegation, pure and simple.

5 What about Ms. Hyde? She's a tough one. She's got
6 two parents who cared about her, no further contact after 1989
7 and all of a sudden here comes this other stuff, although the
8 boy living around the corner, who, by the way, was friends with
9 her brother, is still there and nothing happens. Is there any
10 indication that J.C. was told -- well, probably Jessica was
11 kept away from that house and so nothing happens for a year.
12 But we don't know if there was any other kind of contact at
13 all. Nobody checked that.

14 You have a DFS report that accuses J.C. of having
15 intercourse and sexual contact with his younger sister Susan,
16 and nobody interviews Susan. The whole thing is very peculiar,
17 but very consistent with the time in which these allegations
18 were made, the one failing being that they didn't prosecute.
19 And I say failing because it is different than what was
20 occurring back in those days because in those days any kid that
21 said a teacher touched them wrong -- wrongly or they killed
22 babies in the classroom and had witch craft celebrations,
23 everybody was prosecuted. People went through days and weeks
24 and months of absolute hell because of false accusations,
25 recovered memories.

1 In this particular case it didn't even get that far.
2 But I have a clear recollection of those times. It wasn't
3 easy. Everybody got prosecuted, and it was unusual for people
4 not to be prosecuted.

5 But J.C. Pulham was admitted to Benchmark because of
6 generalized anxiety, depressive reagency, major depression
7 because of the accusations made against him. If there's one
8 person who has been consistent during this entire time, this
9 last 26, 27 years, it is J.C. Pulham. He says, "I did not do
10 these things."

11 Officer Carter, great insight into the -- into the law
12 enforcement psyche -- April 18th, 1989, 9:50 a.m., Lieutenant
13 Carter called and he reports, "In the 16 years he's been on the
14 police force he's never interviewed such a difficult
15 adolescent. He denies everything and claims to be the victim
16 of his sister's vindictiveness. Tried to act as if he was
17 schizophrenic." I don't know how officer Carter knows any of
18 that. Should have read this way, "In the 16 years he's been on
19 the police force he's never interviewed such a difficult
20 adolescent. He doesn't agree with anything Lieutenant Carter
21 accuses him of." That's what happened there. And I'll bet it
22 was frustrating. I bet it was really frustrating.

23 So here we are. We put on the evidence for both
24 sides. Now it is up to you, Your Honor, to decide whether or
25 not the allegations that there have been three hands-on -- you

1 know, that you can be -- you don't have to be super positive,
2 really positive, or absolutely certain. But you have to be
3 reasonably certain that these things, in fact, occurred and
4 that has to be based on the evidence that you've heard here
5 today or that has been presented.

6 It is not a high burden, but it is an important one.
7 And it is these kinds of cases that require the most attention
8 and the greatest care because it is in these kinds of cases the
9 greatest harm can be done based on the least amount of
10 evidence.

11 There's no question J.C. Pulham is going to go to jail
12 for the crime that he pled guilty to. But there should be a
13 significant question that he go to jail essentially twice for
14 another five years or whatever it is, or six years, based upon
15 26-year-old allegations that are contradictory and denied here
16 in this courtroom.

17 We can all do the "Why would they say that? Why
18 wouldn't they?" I don't know. I'm not trying to read
19 anybody's mind. I can only look at the record here and say
20 this is a mess.

21 And we can even believe that it is a mess that's true,
22 but it's a mess anyway. And we can even believe that it is
23 such a mess that even if we believe it might be true, we can't
24 take the chance that a significant injustice will be done. And
25 that's the kind of care we're asking Your Honor and that I know

1 Your Honor will exercise in this case. Thank you.

2 THE COURT: Thank you.

3 MR. ANDERSON: If it please the Court, Mr. Barrett.

4 MR. BARRETT: Mr. Anderson.

5 MR. ANDERSON: It seems it gets down to this, Judge:
6 Two adult women have come forward. One of them was interviewed
7 first by Mr. Olive and then by Agent Reinert, and the second
8 was then interviewed today by Agent Reinert, and they both
9 describe a period of time in their lives when they were being
10 sexually abused by the defendant.

11 If we were just talking about Crystal, because of all
12 the things that are swirling around here I could see where the
13 Court could have some question about whether or not it's more
14 likely than not that she was sexually abused by her brother.
15 But Crystal's testimony, or statements, coupled with the
16 statement of Jessica Hyde that she was sexually abused by the
17 defendant for an extended period of time, make the testimony --
18 make the evidence, I would say, compelling that the defendant,
19 in fact, engaged in a pattern of activity resulting in the
20 sexual abuse of children.

21 Is it old? Yes. But that legally speaking has no
22 relevance to your determination. The fact that the defendant
23 was a juvenile when these events occurred has no legal
24 relevance to your determination.

25 And finally, the fact that there was no adjudication

1 in a juvenile court has no legal relevance to your
2 determination. I would suggest to the Court that based upon
3 the statements made to Mr. Olive by Crystal Pulham, the
4 statement made by Crystal Pulham to Shannon Reinert and the
5 statement made to Shannon Reinert today by Jessica Hyde
6 demonstrate by a preponderance -- by greater than a
7 preponderance that the defendant, in fact, should -- his
8 sentence should be adjusted pursuant to 2G2.2(b)(5).

9 Be happy to answer any question that the Court might
10 have.

11 THE COURT: Thank you.

12 MR. ANDERSON: Thank you, Judge.

13 THE COURT: Mr. Barrett.

14 MR. BARRETT: Your Honor, I think, to be perfectly
15 straightforward, there may be one arguable -- arguable -- I do
16 not concede that it occurred, but one arguably valid, if
17 untrue -- and we know the truth has nothing to do with this --
18 complaint in, and that would be the one time contact between
19 Jessica Hyde and Mr. Pulham. But it is often said, too, that's
20 not enough to impose the five levels. The rest of it is a
21 mess, but -- and here's where we are.

22 Mr. Pulham is faced with the proposition that it
23 doesn't matter if he's convicted, it doesn't matter how old it
24 is and it doesn't matter how innocent or not guilty he may be,
25 what only matters is what these people say. And as long as

1 they say it -- even if it is hearsay, as long as they're not
2 subject to cross-examination, which they're not, doesn't
3 matter; that none of the protections matter, none of the
4 protections apply. All you have to do is say it and then the
5 defendant, Mr. Pulham and others, get to prove the negative: I
6 didn't do it. I was in Hawaii on vacation. I was 15-years-old
7 and I wasn't at the house on that. I don't know where I was.
8 I was playing basketball. I was in Boy Scouts. I was out of
9 the house.

10 That's about as singularly unfair a proposition as
11 even the Sentencing Commission has ever proposed. There's no
12 process to protect anyone from doing an additional, what, five
13 years just on the -- on the say-so of a person who couldn't
14 support a prosecution by a preponderance and certainly not
15 beyond a reasonable doubt and certainly in the face of contrary
16 medical evidence.

17 You know, we can say that's the law and it probably
18 is, but we can't say it is right. And we can't say it affords
19 any protection to a defendant or any assurance that the right
20 thing is being done, only a sort of gut feeling that we get
21 from outrage expressed on February 5th from Texas. It doesn't
22 match up with anything else.

23 And additional -- additional stuff that's not reported
24 ever or prosecuted that, had it occurred, would certainly have
25 been the subject of significant interest in Ms. Hyde's case.

1 We have a counselor that says report it because an offense has
2 occurred. That's what the psychologist was probably required
3 to do even then. And what's reported? One incident. Police
4 are engaged. They can't follow up or are not interested in it.
5 Who knows?

6 But all of that goes on in the background. All
7 Mr. Pulham can do is hope against every bit of hope there is
8 that someone will take a look at this and say, "You know, I
9 just don't want to give somebody an extra four or five years
10 because of what I've seen and heard here." Thank you.

11 THE COURT: I did have one question for you,
12 Mr. Barrett.

13 MR. BARRETT: Yes, ma'am.

14 THE COURT: You mentioned someone by the name of
15 Jennifer Haines. Was this a misstatement or did you mean
16 Jessica?

17 MR. BARRETT: Jessica, it should be Jessica, Your
18 Honor.

19 THE COURT: All right. I wrote that name down and I
20 thought I don't know where that person fits in.

21 MR. BARRETT: I keep wanting to call Benchmark
22 something else, too. I have managed to avoid that so far.

23 THE COURT: All right. Thank you.

24 MR. BARRETT: Thank you.

25 THE COURT: Well, under the guidelines, the pattern

1 is applied where there's two or more occasions of sexual abuse
2 or sexual exploitation and as noted by both attorneys, the --
3 it doesn't matter whether the instances resulted in a
4 conviction or any adjudication.

5 The factors that seem persuasive to the Court in terms
6 of the application of this enhancement are the -- to begin
7 with, the instance reported by Jessica Hyde. Whether that was
8 one or more instances, we have someone of a particular age that
9 correlates with the age of Crystal, and it also correlates with
10 the age of images found on the defendant's computer associated
11 with this particular offense. The types of conduct detailed by
12 two separate individuals also is similar which seems to
13 corroborate the stories.

14 The testimony from Mr. Pulham and Ms. Johnson is a bit
15 indeterminant, and it is obvious that Susan has made every
16 effort to search her memory and doesn't -- doesn't remember
17 incidents. That's understandable. She was young.

18 Mr. Pulham, the testimony there is unusual. You have
19 these accusations. You have this turmoil in the home. You
20 have enough to have a young man go off to a behavioral facility
21 and it seems as though Mr. Pulham's attitude was well, as long
22 as the police didn't arrest him or DFS didn't take him out of
23 the home, and that to me just seems like a strange approach for
24 a parental figure in the family to have taken with all this
25 turmoil going on, particularly where there's this reported

1 incident by Jessica Hyde.

2 And so I don't -- I don't find those witnesses
3 particularly persuasive in terms of what the point of their
4 testimony was.

5 I didn't hear Mr. Pulham testify that Crystal
6 victimized Mr. J.C. Pulham by her report. It was like, well,
7 we -- the doctor couldn't tell us whether there was any
8 touching, and so it sort of seems to kind of go out into the
9 atmosphere as though that was the end of it, when certainly
10 sexual exploitation doesn't have to be sexual intercourse. It
11 doesn't have to be really much of what was described by the
12 girls to amount to sexual exploitation.

13 So the statements by the grown women, Jessica and
14 Crystal, the age that they were at correlate and it correlates
15 with the images to which Mr. Pulham is attracted because of the
16 offense conduct associated with child pornography. And so I
17 believe that the -- that it is more probable than not that the
18 defendant engaged in a pattern of activity, which is at least
19 two, involving the sexual abuse or exploitation of minors.

20 With that conclusion, I'll accept the Presentence
21 Report's findings of fact and put the following guideline
22 calculation on the record.

23 The guideline calculation for possession of child
24 pornography begins at a base offense level of 18. The material
25 involved prepubescent minors and so a two-level increase is

1 applied.

2 The offense involved distribution, so another
3 two-level increase is applied.

4 The offense involved sadistic images, so four levels
5 are applied.

6 I've talked about the pattern of activities and will
7 apply the five-level enhancement.

8 I won't apply the computer enhancement.

9 Because of the number of images, the defendant
10 receives another five levels. The offense involved more than
11 600 images so we're at offense level 36.

12 The defendant does receive a two-level reduction for
13 his timely acceptance of responsibility and a one-level
14 reduction for his assistance in the investigation and
15 prosecution of his conduct.

16 Therefore, with that we are at a total offense level
17 of 33. And again, the explanation associated with the computer
18 enhancement is that it is my practice not to apply it. I
19 disagree with the Sentencing Commission. The heartland of
20 cases involve computers and that is not an unusual offense
21 characteristic, so to the extent that needs to be explained, it
22 will be explained by way of a variance.

23 To Mr. Pulham's credit -- he does have some criminal
24 history. None is counted against him, and so he is in the most
25 favorable Criminal History Category, Category I.

1 That results in a guideline sentence of 135 to 168
2 months.

3 Other than objections noted relating to facts that are
4 contested and the Court's conclusions concerning the five-level
5 enhancement for pattern, are there additional objections to the
6 Court's recitation of the guidelines? Mr. Barrett.

7 MR. BARRETT: No, Your Honor.

8 MR. ANDERSON: No, Your Honor.

9 THE COURT: Mr. Anderson.

10 MR. ANDERSON: No, thank you.

11 THE COURT: All right. Mr. Barrett, we've talked on
12 and off very persuasively about the length of the sentence. I
13 would invite you to make your statement and argument on the
14 sentence sufficient, but not greater than necessary. While
15 you're approaching the podium, I do have some letters that I
16 received today. Let me go ahead and put them by summary
17 fashion in the open record and then they'll go into CM/ECF
18 unless there's some objection to these letters going into the
19 actual docket.

20 MR. BARRETT: No.

21 THE COURT: I have a letter from Jerry Simon, the
22 general manager for Knight's Inn who writes a very positive
23 letter about the decision he made to hire J.C., how he's never
24 been sorry or disappointed in the work, the positive
25 contributions J.C. has made during his time in employment, the

1 fact that he's never missed a day, the fact that he was open
2 about the charges. And then Mr. Simon writes requesting
3 leniency and further goes on to say that he would be happy to
4 have him continue to work if that were possible in terms of the
5 disposition of the case.

6 I have a letter from Trina Pulham, Mr. Pulham's
7 spouse. I actually have two letters. One letter writes about
8 the support, financial and emotional support Mr. Pulham
9 provides to his family, some history about Mr. Pulham, work
10 history and otherwise. She characterizes him as kind-hearted
11 and devoted, a diligent worker. She talks about the work that
12 he does fostering ferrel kittens. She raises concerns about a
13 lengthy criminal sentence and how devastating that would be to
14 the family, what a hardship considering her situation. And
15 she, too, has said that there's -- that the circumstances have
16 deteriorated her mental health. She worries about time in
17 custody for her husband. She asks if he does need to spend
18 time in custody he be allowed to self-surrender and talks about
19 the efforts she's making to become more self-sufficient.

20 And she concludes, in addition to asking for leniency,
21 reinforcing that they will be there, she and the children, to
22 support J.C. throughout this entire process. Then she writes a
23 letter providing some history about her time with the Pulham
24 family, her time with Debbie, her concerns about Crystal, her
25 concerns about Crystal's truthfulness, how she doesn't believe

1 the accusations. She talks about how long she's known Susan
2 Pulham Johnson and Mr. Pulham, J.C.'s dad, which is a
3 significant period of time, and that she mentions that none of
4 her -- their daughters have been subject to any sort of sexual
5 abuse and that he doesn't -- she has had no reason to suspect
6 her husband of any inappropriate behavior with her children or
7 other children and speaks about that in the context of the 23
8 years that she's known him and the family.

9 I have a letter from John Jaggerson who writes on
10 behalf of J.C. as a close friend. He characterizes J.C. as a
11 kind and generous person, both as a friend and employee; how he
12 has been there for advice, has provided help and support and
13 how he's had the opportunity to hire J.C. a couple of different
14 times for different businesses that he's run. He asks for
15 leniency as well and notes that J.C. should be in a -- should
16 be able to be left in a position to continue to support his
17 family and friends.

18 I have a letter from Kai Pulham, and Kai is -- notes
19 that J.C. is -- I am -- I'm not sure. Is Kai a son?

20 THE DEFENDANT: My oldest daughter.

21 THE COURT: Oh, your oldest daughter. How she's
22 J.C.'s dad -- or J.C. is her dad. She apparently is like 22
23 years old now or somewhere in that vicinity. She believes she
24 knows him as well as anybody does. She is aware of the
25 circumstances and has discussed the case with both of the

1 parents. She notes that J.C.'s been a good dad to her and the
2 sister -- and her sisters, how hard he works, how helpful and
3 friendly he is to guests and others. She notes that her father
4 knows what he's done is wrong and that he wishes he could turn
5 back time and have made different choices.

6 She, too, asks that he be allowed to self-surrender to
7 wrap up some things that would be important and to -- along the
8 lines of her mother's statement as well, to give everyone a
9 proper chance to say good-bye.

10 And I have a letter from Deborah Pulham, Mr. Pulham's
11 mother. And she -- she talks about Crystal as well and she is
12 concerned that no one called her to collect the information for
13 the Presentence Report. She notes that J.C. was mostly a happy
14 child, how he learned to read at a young age, spent time with
15 books and scouting, how he achieved his Eagle Scout at the age
16 of 13, how hard it was when Terry and she were divorced and how
17 J.C.'s grades suffered, how they -- they don't live close, and
18 she doesn't have enough financially to visit often, but she
19 knows that he -- J.C. loves his wife and kids very much. And
20 she notes that the family relies upon him and the difficulty
21 financially and emotionally it will be to be separated. She
22 asks for leniency.

23 And then I think the last letter is from Ross Turner.
24 He talks about knowing what the charge is and he reassures the
25 Court that J.C. has never done anything negative or untoward

1 towards J.C.'s daughters. He provides some history concerning
2 his -- his time. And apparently he and his wife had physical
3 custody of J.C.'s two youngest daughters for a while and
4 perhaps currently. He notes that they -- they -- that they
5 don't show any signs of any abuse. He talks about the issue of
6 punishment and notes the -- and asks for leniency. He, too,
7 writes about the employment and marketable skills that J.C.
8 has. He believes that nothing is served by putting him in
9 prison for a lengthy period of time; that J.C.'s repentant,
10 that he should have an opportunity to move on as a husband and
11 father and how difficult it will be on his -- on J.C.'s family.

12 I guess Mr. Turner is a grandfather. He refers to
13 himself as an old and tired grandfather. He asks that this sad
14 situation not become a tragedy by way of a lengthy sentence.

15 Did I miss any letters, Mr. Barrett? And again, I
16 always do a poor job summarizing them, but they will be --

17 MR. BARRETT: Your Honor, I wonder if we might have a
18 five-minute recess.

19 THE COURT: I'm sorry?

20 MR. BARRETT: I wonder if I might have a five-minute
21 recess.

22 THE COURT: Yes, it is getting late.

23 MR. BARRETT: I will be brief. I need to discuss a
24 matter with Mr. Anderson as well, Judge.

25 THE COURT: Okay. Is five minutes adequate? Why

DOCKET 15-CR-136-F

DISPOSITION - BARRETT

68

1 don't we go ahead and take a -- we can take a recess until -- I
2 can't really read that clock -- but until like 4:40. 4:40,
3 okay? All right. We will stand in recess until 4:40.

4 (Recess taken 4:27 p.m. until 4:40 p.m..)

5 THE COURT: Mr. Barrett.

6 MR. BARRETT: Thank you, Your Honor. If it please the
7 Court, I think the Presentence Report in all respects other
8 than those argued, of course, to the Court, is accurate and
9 sets forth a good picture of Mr. Pulham and his current
10 circumstances, as do the letters that the Court has referenced.

11 I'm not going to spend an awful lot of time on
12 sentence other than the sentence of 135 months at the low end
13 seems to me to be excessive given the circumstances. And those
14 circumstances are that Mr. Pulham has been a reasonably good
15 citizen for a number of years, raised a family in spite of what
16 we want to believe or not believe about his past when he was 17
17 years old. Since that time he's done apparently enough of a
18 job of turning his life around and keeping his life squared
19 away that his friends and employers really appreciate and
20 support him, as do many members of his family.

21 So the question is is a sentence at the low end of
22 this -- in this case, a sentence of 135 months, what's that, 11
23 years or thereabouts, sufficient, but not greater than
24 necessary? And I would strongly suggest that it is much
25 greater than necessary given this possession charge to which

1 Mr. Pulham has pled.

2 What Mr. Pulham needs is a designation where he can
3 receive counseling for whatever drew him to obtain these images
4 in order to assure that, through supervision or otherwise, that
5 he will be motivated to stay out of jail. And I'm sure that's
6 not an issue or a problem. I don't have the sense that
7 Mr. Pulham is necessarily tremendously addicted to this
8 material, but certainly there's an attraction that he needs to
9 deal with.

10 Having said that, as the Court's announced the current
11 adjusted offense level -- or total offense level was 33,
12 Criminal History Category I with a low end of 135 months, I
13 would suggest to the Court that a sentence of eight years
14 rather than eleven, 96 or 97 months which would be at the low
15 end of offense level 30, is sufficient, but not greater than
16 necessary, to punish this offense. And it is not such a
17 variance that it eliminates entirely the five levels that were
18 of concern to the Court, I'm sure, but, nevertheless, I think,
19 would apply for all intents and purposes a two-level bump for
20 the material that we discussed earlier during the hearing but
21 would also supply a significant punishment for the possession
22 charge in this case.

23 Haven't had any indication that the public is
24 tremendously interested, but certainly an eight-year sentence
25 is something in terms of public respect for the law and that is

1 for the possession of child pornography, not for child sexual
2 assault or manufacture or any of the more serious offenses.

3 And so I would ask Your Honor to vary downward from 33
4 to 30 and impose a sentence at the low end of that guidelines
5 which would be an eight-year sentence, just barely above that,
6 of 97 months which I think is sufficient.

7 There's no restitution required in this matter.
8 Mr. Pulham has no independent means by which to pay a fine
9 currently, although prisoner financial responsibility will
10 begin some of that should a fine be imposed. But he can't pay
11 a fine within the advisory guideline range. And his family is
12 going to have some difficulty in any event, even when he's
13 released. We hope that they can eek out a living and get along
14 in the meantime, but certainly we don't want to impose any
15 additional burden on them that is already -- than they already
16 face.

17 With regard to supervised release, likely a
18 significant period of supervised release would be called for
19 simply for the purpose of Mr. Pulham being able to assure and
20 reassure this Court and the system that he's an individual who
21 responds to counseling, who lives a law-abiding life and who
22 can comply with the law.

23 No restitution. We talked about fine. Of course,
24 special assessment is mandatory. Thank you, Your Honor.

25 THE COURT: Thank you.

1 Mr. Anderson.

2 MR. ANDERSON: Your Honor, when 2G2.2, the guideline
3 in this particular matter, was enacted, I think that the
4 primary concern of the Congress -- excuse me -- of the
5 Sentencing Commission and Congress in general was that
6 individuals that are drawn to this material -- to paraphrase
7 defense counsel, Mr. Barrett, people that are drawn to this
8 material have a strong and have demonstrated a strong sexual
9 interest in children. And I think that the guideline -- the
10 thinking of the framers of the guideline at the time, the
11 primary and overriding concern was protection: Protection of
12 children, protection of the community from individuals that
13 would prey upon the most vulnerable members of our community.

14 I think in this particular case -- and I know the
15 Court has heard me criticize and be critical of 2G2.2 in the
16 past. It has been described by some commentators as a broken
17 guideline. It has been criticized because it really doesn't
18 take into account the variability, the variation and the
19 differences in the broad spectrum of offenders that we see that
20 come before us in these cases.

21 And I think in this particular case, though, Judge, a
22 sentence close to and within the guideline is appropriate. And
23 I'll give you my -- my thinking.

24 I think the overriding concern in this particular
25 matter should be protection, protection of the defendant's

1 11-year-old child and other -- and other children within his
2 community. This is a crime of violence. This is a crime
3 that -- we know individuals who engage in this type of crime
4 are prone to reoffend often, but this is a crime that
5 demonstrates more than any other crime an interest in children.

6 The average person that sees some of these images is
7 repelled and is repulsed. Judge Johnson oftentimes refers to
8 these images as toxic, and I think that's a good descriptor.
9 An individual that would use this material to satisfy their
10 interest in children by means of masturbation is obviously
11 demonstrating an interest in children.

12 And in this case we even have stronger indication of
13 an interest in children as the defendant and as the Court has
14 found has demonstrated a sexual interest in children as he
15 acted on that when he was an adolescent, offending against a
16 prepubescent child, specifically the second -- the neighbor
17 girl, Jessica.

18 It seems to me that a sentence close to the guideline
19 would ensure, first and foremost, that the defendant's
20 11-year-old child will, in fact, go through the remainder of
21 her -- her prepubescent years and her early adolescent years
22 safe or at least protected from her father.

23 I would suggest to the Court that a sentence in the
24 guideline range will also protect other children who might come
25 in contact with the defendant.

1 The facts and circumstances, if you start looking at
2 the nature and the circumstances of this particular case --
3 well, the actual possession of the child pornography in and of
4 itself is fairly mainstream. But what we don't have what we
5 often have, Judge, is some type of indication as to the
6 defendant's propensity to reoffend. We don't have that. We do
7 know that the defendant has offended in the past. We have no
8 assurance that the defendant is amenable to treatment.

9 We essentially have a cipher in regards to defendant's
10 current state of mind. All we can look at are his prior
11 actions. The prior actions are the offenses when he was a
12 child and the offense now and also how he's acted in his life.
13 I would suggest to the Court that the defendant's life in
14 Evanston is very telling. He lived a socially isolated life.
15 His children were home schooled. Now, that's typically a very
16 laudable -- I've got no kick against anyone that decides public
17 schools aren't providing the education that they want for their
18 children. But if you look at the defendant's background,
19 background of his life, and the conditions of their home at the
20 time that they were ostensibly or supposed to be home schooling
21 their youngest, one wonders what actually was the motivation
22 from keeping those children from the public and socializing
23 with others.

24 I suggest to the Court that that is a very, very
25 deeply concerning situation that the Court ought consider in

1 imposing a sentence that protects the defendant's child from
2 him.

3 We know about the defendant that he is a two-time
4 convicted felon. We know about the defendant that, again, he
5 lived a life of isolation, of social isolation, and we know
6 that the defendant is an individual who, for lack of a better
7 term, is a pedophile. I would suggest under those
8 circumstances and with the facts and circumstances of this case
9 and taking into account the factors that the Court must under
10 3553 that a sentence in the guideline range is appropriate and
11 should be imposed by the Court.

12 I'd be happy to answer any question that the Court
13 might have.

14 THE COURT: Thank you.

15 MR. ANDERSON: Thank you, Your Honor. May I make -- I
16 forgot to say something. I wanted to say this. And I want to
17 put it on the record. I wanted to tell the Court and I wanted
18 to compliment the Court and I wanted to compliment really not
19 so much the Court but the probation office in this particular
20 matter.

21 Mr. Olive's probation report in this particular matter
22 brought to light facts that were extraordinarily important to
23 everyone connected with this case, particularly to the Court
24 for purposes of imposing an appropriate sentence. I've been
25 involved with other cases with Mr. Olive where he has gone

1 above and beyond, and he went above and beyond in this
2 particular case, and I think we are all lucky to have him. I
3 don't want to sound obsequious in saying that. I certainly
4 tease John Olive more than most anybody else in this building,
5 but he did a great job in this particular case, Judge, and I
6 think we're lucky to have him.

7 THE COURT: Thank you.

8 Mr. Barrett, anything further before I call on
9 Mr. Pulham?

10 MR. BARRETT: Yes.

11 Too late to not sound obsequious, Jim.

12 The strong being put up, we have to protect the
13 11-year-old daughter, from what? From something, maybe, that
14 has never happened. For up to 23 years these children have
15 been examined. You know, the conditions of the home, okay,
16 we'll get a new vacuum cleaner; we'll shovel the place out.
17 That's not what he's charged with. He's not charged with
18 untidy, extremely untidy housekeeping, and yet that's viewed as
19 some kind of danger.

20 You're not -- an eight-year sentence, even with good
21 time, what, the youngest daughter is going to be 17, 18 years
22 old, certainly not subject to any significant overriding of her
23 will.

24 And there's no indication that that's ever happened
25 with anyone else, including the oldest daughter Kai who said,

1 "Yeah, nothing like that ever happened. He's been a good
2 father." Well, what happened when he was 17, if it happened,
3 and he still denies it, but nevertheless, it's out there, that
4 accusation. There's been nothing since, 26 years, 27 years. I
5 guess there was some kind of incident in Spanish Fork, but not
6 a contact thing.

7 But, okay, let's cut -- just call it 20 years. For 20
8 years he's held work, has employers who like him; he's got
9 family who supports him and family who recognizes that he's
10 going to jail, that he's going to prison, that what he did was
11 wrong. Nobody is up here from the family saying, "Oh, no,
12 don't do it, Your Honor. This is a terrible law and he's a
13 good man." No, there are consequences. But the consequences
14 shouldn't exceed the rational disposition for the offense.

15 When Mr. Pulham returns, one of the other best way --
16 I have an idea if you want to maintain supervision, supervise
17 him. I don't think he's going to violate again. I don't think
18 Mr. Anderson does either. Certainly he talks about concern and
19 so out of concern we ought to add years, but that doesn't help.
20 If you added four years or five years, as Judge Brimmer used to
21 say, at least we know where you are. But does that protect
22 anybody else in the future? Not really. I don't -- I'm not
23 suggesting that that's required here.

24 But if there's concern, that concern can be and should
25 be addressed through a long period of supervision and a

1 lifetime -- Mr. Pulham is subject to a lifetime of sex
2 registration. All of those supervisory provisions are in
3 place. They can do whatever they want, go to counseling.

4 And then the other -- and it is not only just the
5 guideline that's broken, it is the whole culture, the idea that
6 if you look at -- understandably we've got this stuff 20 years
7 ago or more. But the idea that people who possess pornography
8 are pedophiles or that people who possess pornography are going
9 to assault children has been disproven time and time again.
10 It's just not true. It happens, but only because the pedophile
11 is a pedophile first and a pornographer second. In this case
12 we have a person who is interested in child pornography but no
13 other further evidence of assaultive behavior or improper
14 behavior.

15 The children are still available before release to
16 supervision to be forensically examined. There are any number
17 of other devices that are available other than simple
18 warehousing. And while Mr. Pulham is incarcerated, he will be
19 subject to and counseling will be available at that point.

20 So public -- the protection of the public assumes just
21 a catastrophic failure of the system, and that is something
22 that cannot and should not be made in this case, and Mr. Pulham
23 doesn't need a 11-year sentence in order to show that to be the
24 case. Thank you.

25 THE COURT: Thank you.

DOCKET 15-CR-136-F

ALLOCUTION

78

1 MR. BARRETT: J.C.

2 THE COURT: Mr. Pulham, if you have anything you wish
3 to say, I would welcome your comments.

4 THE DEFENDANT: Thank you, Your Honor. I have some
5 notes. I'm not sure how much they'll help.

6 You mentioned in December that I should think of what
7 I might want to say, and I don't know if I'm any closer to that
8 than I was then, but I'll try.

9 I am sorry for what I did. And not because I was
10 caught, but since then I've looked into some information about,
11 you know, where the victims come from and what happens to them
12 and I regret that I took part in that industry.

13 I -- I don't have much to say about Crystal. It is
14 immaterial at this point, I guess, but a couple of weeks ago
15 Barrett did advise a deal for a set amount of time and I pushed
16 him to go forward with this because I would rather serve more
17 time for something that I didn't do in regards to Crystal and
18 Susan than to agree and make it sound like I did do it when I
19 didn't. And I've always said so and will continue to for the
20 rest of my life.

21 I've never been accused of violence. I've -- I
22 haven't been in a fistfight since I was in high school and some
23 kid hit me. My youngest daughter, because of the situation of
24 our house when the warrant was served, has been with her
25 grandparents. We -- my defense requested a forensic interview

DOCKET 15-CR-136-F

ALLOCUTION

79

1 for her, for Aspen, which they had done, and there was no
2 concerns and DFS has even stated at the last meeting that they
3 have no concerns that anything has ever happened to her.

4 And all of my other children were shocked to even be
5 asked that anything had ever happened to them. That's
6 certainly a line I would never have crossed or would cross.

7 I am offended at the insinuation that my wife isn't
8 here because she doesn't care. We have children. It is
9 difficult. It is a very long drive. We usually come up the
10 night before and stay the night, so for my wife to come up and
11 leave our kids by themselves, even the two adult kids, you
12 know, she has a lot of concerns about that and about them and
13 wants to be there for them, especially right now. They're --
14 sorry. They're very upset as well and scared about what's
15 going to happen to me and what's going to happen to them. So
16 we decided it was much more important for her to be there with
17 them than to try to go into even more debt to figure out how to
18 get everybody to be here. But they were certainly willing if,
19 you know, money fell out of the sky, if I win the lottery.

20 I have done a lot of good things over the years. I've
21 been an Eagle Scout. I've, you know, worked to volunteer with
22 the Boy Scouts to help out where I can. When I was managing
23 the Econolodge Motel, I helped out friends and people I didn't
24 know. I tried to always make sure that the other groups in the
25 community had the cheapest rate that I could get the owner to

1 agree to to put up people from Safe, from the Salvation Army,
2 from other church groups, from the local community when the
3 police brought people in who were homeless or stranded.

4 I've always tried to be a good husband and father.
5 Obviously I've fallen short, and I'll spend the rest of my life
6 trying to make up to them for that.

7 I plead for a downward departure, not for myself but
8 for my family, to be back with them as soon as I can, to take
9 care of them emotionally and financially. Thanks for your
10 time.

11 THE COURT: Thank you, Mr. Pulham.

12 MR. BARRETT: Your Honor, the only other two matters I
13 might bring up is we would request a designation to Englewood,
14 Colorado. And you had mentioned in one of the letters they
15 talked about a voluntary surrender. We would ask that you
16 consider a voluntary surrender in this matter as well. Thank
17 you.

18 THE COURT: Thank you. Well, as in all cases, the
19 sentencing objective is a sentence sufficient, but not greater
20 than necessary, as punishment. This defendant suffers a number
21 of enhancements to his offense level that really drive the
22 sentence up. And from the Court's perspective the additional
23 five levels for pattern, while I believe that enhancement is
24 properly applied, it seems particularly punitive considering
25 the amount of years that have passed, as Mr. Barrett has noted,

1 since whatever -- whatever happened back then.

2 In considering the offense conduct and the defendant's
3 history and characteristics, I'm less concerned that this
4 defendant is a risk for future hands-on conduct. I am a bit
5 worried that your proficiency with computers could make it a
6 little more of a challenge to supervise, but the probation
7 office through access and the limitations that are imposed and
8 the treatment that is available, both while in custody and
9 while on supervision, should minimize further interest in child
10 pornography. The period of supervised release will be lengthy
11 enough to make sure that that's, indeed, the case.

12 I appreciate your comments that you have a better
13 appreciation of the impact viewing through the Internet has on
14 victims. For many it may seem passive, but for the children
15 that have been victimized and then have those images stay on
16 the Internet accessible to others is just a revictimization,
17 and I appreciate your statements in that regard.

18 As to the length of time in custody, I'll vary three
19 levels and impose the 97 months. From my perspective, that's
20 still a very long sentence. I know your family will be
21 disappointed that more leniency wasn't given. It's hard to
22 apply -- at least the circumstances are such that I'm reluctant
23 to apply more of a variance, and the reality is that, as I
24 said, the enhancements that routinely apply to child
25 pornography cases do drive the sentences up.

1 But it is my view that will -- even if I was concerned
2 about the youngest daughter at home -- and I'm not really
3 concerned about any abuse or exploitation there, but if I were,
4 she'll reach an age that -- as Mr. Barrett has said, that would
5 allow her to not be subject to any kind of exploitation there.

6 With that explanation, I will state sentence. The
7 Court granted a two-level variance to negate the effect of the
8 enhancement for use of a computer, as I conclude that nearly --
9 it is nearly universal in child pornography cases.

10 I'll grant an additional three-level variance to
11 reflect the fact that it seems as though the offense
12 characteristics have been overly enhanced considering the
13 particular -- in particular considering the five-level
14 enhancement and the age that the defendant appears on this
15 charge and the age that those accusations were lodged. It
16 seems as though it is overly punitive and that some
17 consideration should be given to that.

18 The defendant did present through counsel a number of
19 very positive letters concerning his current characteristics as
20 a hard worker, caring and dedicated individual, both within the
21 family and in the community. And so it is the Court's view
22 that the ultimate sentence of 97 months is sufficient, but not
23 greater than necessary.

24 Therefore, pursuant to the Sentencing Reform Act of
25 1984 and considering those factors set forth in 18 USC Section

1 3553(a), it is the Judgment and Sentence of the Court that the
2 Defendant J.C. Christopher Pulham is hereby sentenced to a term
3 of 97 months in the custody of the Bureau of Prisons. Upon
4 release from custody, the defendant shall be placed on
5 supervised release for a term of ten years.

6 Within 72 hours of release from the custody of the
7 Bureau of Prisons, the defendant shall report in person to the
8 probation office in the district to which he's released.

9 While on supervised release, the defendant shall
10 comply with the mandatory and standard conditions of
11 supervision adopted by this Court, except that mandatory drug
12 testing is waived.

13 The probation officer will provide state officials
14 with any and all information required by the state sex offender
15 registration agency and may direct the defendant to report to
16 that agency personally for additional processing such as for
17 photographing and fingerprinting.

18 In addition, due to the nature of the offense,
19 conditions will be imposed to address the risk of future
20 sexually deviant behavior, including limitations on computer
21 use, numbers of computers, restrictions on associating with
22 minor children or vulnerable adults and sex offender treatment.

23 Given the nature of the offense, a condition is also
24 imposed to address any cognitive thinking errors, and primarily
25 to address officer safety, a search condition will be imposed.

1 Therefore, the following special conditions are
2 recited: The defendant shall not access the Internet with any
3 device unless such device has filtering software installed that
4 has been approved by the probation office. The defendant shall
5 not make any attempt to conceal or erase the names of sites
6 visited and shall configure any computer he uses to retain
7 history for at least 30 days.

8 The defendant shall not possess, send or receive any
9 pornographic, sexually oriented or sexually stimulating visual,
10 auditory, telephonic or electronic signs, signals or sounds
11 from any source unless part of a treatment regimen. He shall
12 not visit bulletin boards, chatrooms or other Internet sites
13 where any pornographic, sexually oriented or sexually
14 stimulating images or messages are discussed. He shall not
15 send or receive e-mail or other documents discussing any
16 pornographic, sexually oriented or sexually stimulating images
17 or messages.

18 The defendant shall not use or possess any computer
19 not authorized by the U.S. Probation Office.

20 The defendant shall consent to having installed on his
21 computer at his own expense any hardware or software systems to
22 monitor computer use.

23 The defendant may be limited to possessing only one
24 personal Internet-capable device to facilitate effective
25 monitoring of his Internet-related activities.

1 The defendant shall consent to the probation office
2 conducting periodic unannounced examinations of his computers,
3 hardware, software and other electronic devices which may
4 include retrieval and copying of all data from his computer.
5 This also includes the removal of such equipment if necessary
6 for the purpose of conducting a more thorough inspection or
7 investigation.

8 The defendant shall agree to sign and abide by the
9 forensic intake agreement and the computer use agreement
10 provided by the probation office. For the purposes of this
11 condition, the term "computer" is defined at 18 USC Section
12 1030(e) which includes, but is not limited to, traditional
13 computers, cellular phones, Internet tablets and game machines
14 and related accessories.

15 The defendant shall participate in and successfully
16 complete sex offender treatment in a program approved by the
17 U.S. Probation Officer and abide by the rules, requirements and
18 conditions of the treatment program. The defendant shall not
19 discontinue treatment without the permission of the U.S.
20 Probation Officer. This program may include polygraph testing.

21 The defendant shall not associate with any child under
22 the age of 18 or mentally or physically vulnerable adults
23 except in the presence of a responsible adult who is aware of
24 the nature of the defendant's background and current offense
25 and who has been approved by the probation officer.

1 The defendant shall register with the state sex
2 offender registration agency in any state in which he resides,
3 is employed, carries on a vocation, or is a student as directed
4 by the U.S. Probation Officer.

5 The Court orders as an explicit condition of
6 supervised release for the defendant who is a felon and
7 required to register under the Sex Offender Registration and
8 Notification Act that he submit his person and any property,
9 house, storage facility, residence, vehicle, papers, computer
10 and other electronic communications or data storage devices or
11 media and effects to a search at any time with or without a
12 warrant by any law enforcement or probation officer with
13 reasonable suspicion concerning a violation of a condition of
14 supervised release or unlawful conduct by the person and by any
15 probation officer in the lawful discharge of the officer's
16 supervision functions.

17 As a component of the defendant's treatment and
18 testing program, the defendant shall pay a one-time fee of \$750
19 to partially defray the costs of sex offender treatment.
20 Monetary payments made by the defendant shall be applied to
21 this fee only after all other court-ordered monetary
22 obligations are fulfilled.

23 Payment of the fee shall be by money order or
24 cashier's check, payable to the Clerk of the District Court and
25 mailed to the address shown on the payment coupon. This

1 condition is waived if the defendant is supervised by a
2 district other than Wyoming.

3 The defendant shall participate in a cognitive
4 behavioral treatment regimen which may include, but is not
5 limited to, moral reconnection therapy, cognitive thinking,
6 Thinking For A Change or interactive journaling.

7 The defendant shall actively participate in treatment
8 until successfully discharged or until the U.S. Probation
9 Officer has excused the defendant from the treatment regimen.

10 The defendant shall be prohibited from using any form
11 of encryption, cryptography, steganography, compression,
12 password-protected files that may limit access to or change the
13 appearance of data and/or images without prior written
14 permission from the supervising officer.

15 If for work purposes password protection is required
16 on any system or files used by the defendant, the password
17 shall be provided to the supervising officer or the officer's
18 designee upon request.

19 The Court finds that restitution is mandatory;
20 however, no request for restitution has been made from any
21 identified victims.

22 The Court finds the defendant does not have the
23 ability to pay a fine within the guideline range, but he can
24 pay a reduced fine and a fine of \$300 is imposed, inclusive of
25 penalties and interest, if applicable.

1 It is ordered that the defendant shall pay a special
2 assessment fee of \$100 which is due immediately. Payments for
3 monetary obligations shall be made payable by cashier's check
4 or money order to the Clerk of the District Court, 2120 Capitol
5 Avenue, Second Floor, Cheyenne, Wyoming, 82001.

6 The defendant shall participate in the Inmate
7 Financial Responsibility Program to pay his monetary
8 obligations. Any amount not paid immediately shall be paid
9 while in custody in the amount of \$25 per quarter. Any amount
10 not paid immediately or while in custody shall be paid
11 commencing 60 days after the defendant's release from custody
12 in monthly installments of not less than \$25, or 10 percent of
13 the defendant's gross monthly income, whichever is greater.

14 All monetary obligations shall be satisfied no later
15 than 60 days prior to the expiration of the defendant's term of
16 supervised release.

17 The defendant is advised that he has 14 days from the
18 date of entry of judgment to file a Notice of Appeal.

19 I will include in the statement of judgment a
20 recommended designation to Englewood for the convenience of
21 family in terms of visitation as well as for programming
22 available there.

23 Other than reasons previously argued, is there -- and
24 those that are preserved in the record, are there any reasons
25 why the sentence should not be imposed as stated?

1 Mr. Barrett.

2 MR. BARRETT: No, Your Honor.

3 THE COURT: Mr. Anderson.

4 MR. ANDERSON: No, Your Honor. Thank you.

5 THE COURT: All right. For the Government, I believe
6 we have a remaining count in the Indictment.

7 MR. ANDERSON: Move to dismiss, Your Honor.

8 THE COURT: Is that Count 2?

9 MR. ANDERSON: It is indeed Count 2, Judge. Just want
10 to make sure. Count 2 is the receipt charge, Your Honor.
11 Would move to dismiss at this time.

12 THE COURT: Count 2 is dismissed.

13 We have a request for self-surrender.

14 MR. BARRETT: Yes, Your Honor.

15 THE COURT: From the Government.

16 MR. ANDERSON: Can't do it or I can't go along with
17 that, Judge. I think 3143 paragraph (b) is very clear. The
18 defendant must be taken into custody today.

19 THE COURT: Mr. Barrett.

20 MR. BARRETT: All I can say with regard to that is
21 that Mr. Pulham has had absolutely no difficulty while on bond
22 or bond supervision. He has maintained employment and, as
23 indicated in the letters from the family, they would like some
24 reasonable period of time within which to organize and say
25 their good-byes. Mr. Pulham will be gone for a significant

1 period of time, we hope only to Englewood, if you can call it
2 that, but that it may be some other location so by the time his
3 designation is here we don't know whether he will be in Texas
4 or Colorado, but we hope Colorado.

5 THE COURT: Well, I agree with the Government. There
6 is no basis for self-surrender in this case adequate to meet
7 the statutory criteria.

8 I know that's a disappointment to you, Mr. Pulham, and
9 I'm sorry. And I know it will be devastating to your family as
10 well. Please know that I certainly did not take in any way
11 negative the fact that your wife is not here. I know what it
12 is like to have children at home and I know that you have to
13 make choices, and so that had no bearing on any of my decisions
14 today. I don't want her to worry. Otherwise -- she wrote two
15 lengthy letters. She obviously loves you and you're lucky to
16 have her.

17 THE DEFENDANT: She spent a lot of time trying to get
18 those written.

19 THE COURT: Well, they were very well written and very
20 thorough, and you're lucky to have such a strong support
21 system, to have family here and to have a wife and daughters
22 that stand behind you.

23 At this time, under the statute I'll remand you to the
24 custody of the Marshal Service.

25 We'll stand in recess until call.

DOCKET 15-CR-136-F

JUDGMENT & SENTENCE

91

1 (Proceedings concluded 5:21 p.m., February 18, 2016.)

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C E R T I F I C A T E

I, JANET DAVIS, Federal Official Court Reporter for the United States District Court for the District of Wyoming, a Registered Diplomat Reporter and Federal Certified Realtime Reporter, do hereby certify that I reported by machine shorthand the foregoing proceedings contained herein on the aforementioned subject on the date herein set forth, and that the foregoing pages constitute a full, true and correct transcript.

Dated this 31st day of March, 2016.

/s/ Janet Davis

JANET DAVIS
Registered Diplomat Reporter
Federal Certified Realtime Reporter
United States Court Reporter